

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

Master File No. 11-md-2262 (NRB)

THIS DOCUMENT RELATES TO:

METZLER INVESTMENT GmbH, et al.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.,

Defendants.

**JOINT DECLARATION OF DAVID E. KOVEL AND CHRISTOPHER LOVELL IN
SUPPORT OF (A) EXCHANGE-BASED PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION SETTLEMENT, AND (B) EXCHANGE-BASED
PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF LITIGATION EXPENSES**

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TABLE OF DEFINED TERMS

The following defined terms are used in this Joint Declaration:

| Parties | |
|---|---|
| Term | Definition |
| Barclays | Barclays Bank plc. |
| BOA | Bank of America Corporation and Bank of America, N.A. |
| Citi | Citigroup Inc., Citibank, N.A., and Citigroup Global Markets Inc. |
| Credit Suisse | Credit Suisse AG. Credit Suisse AG merged with and into UBS AG and ceases to exist. |
| Defendants | The defendants currently named in the Action, Persons formerly named as defendants that have settled the Action, been dismissed from the Action, or are otherwise not currently named in the Action, and any Persons that may be added to the Action in the future as defendants through amended or supplemental pleadings. |
| Deutsche Bank | Deutsche Bank AG, Deutsche Bank Securities Inc., and DB Group Services (UK) Ltd. |
| Exchange-Based Plaintiffs or Plaintiffs | Metzler Asset Management GmbH (f/k/a Metzler Investment GmbH), FTC Futures Fund SICAV, FTC Futures Fund PCC Ltd., Atlantic Trading USA, LLC, 303030 Trading LLC, Gary Francis, and Nathaniel Haynes. |
| HSBC | HSBC Bank plc. |
| JPMorgan | JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. |
| Lloyds | Lloyds Bank plc and Bank of Scotland plc, collectively. |
| MUFG | MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.). |
| NatWest | NatWest Markets plc (f/k/a The Royal Bank of Scotland plc). |
| Norinchukin | The Norinchukin Bank. |
| Portigon | Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG), collectively. |
| Rabobank | Coöperatieve Rabobank U.A. (f/k/a/ Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.). |
| RBC | Royal Bank of Canada and RBC Capital Markets, LLC. |
| Settling Defendants | Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS. |
| Settling Parties | Settling Defendants and Settlement Class Members. |
| SG | Société Générale. |
| UBS | UBS AG. |

| Settlement Class | |
|-------------------------|---|
| Term | Definition |
| Settlement | Settlement Agreement Between Exchange-Based Plaintiffs and Credit Suisse AG, Lloyds Bank plc, Bank of Scotland plc, NatWest Markets plc, Portigon AG, Westdeutsche Immobilienbank AG, Royal Bank of Canada, RBC Capital Markets, LLC, Coöperatieve Rabobank U.A., The |

| Settlement Class | |
|--------------------------|---|
| Term | Definition |
| | Norinchukin Bank, MUFG Bank, LTD., and UBS AG, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262, (Apr. 8, 2024) [ECF No. 4011-1]. |
| Settlement Class | All persons, corporations and other legal entities that transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including, without limitation, the Chicago Mercantile Exchange, between January 1, 2003 and May 31, 2011, inclusive; provided that if Exchange-Based Plaintiffs expand the class period in any subsequent amended complaint, motion or settlement, the period in the Settlement Class definition in this Agreement shall be modified so as to include that expanded class period. Excluded from the Settlement Class are: (i) Defendants, their employees, affiliates, parents, subsidiaries, and alleged co- conspirators; (ii) the Releasees; (iii) any Settlement Class Member who files a timely and valid request for exclusion; and (iv) any Persons dismissed from this Action with prejudice. |
| Settlement Class Members | All persons falling within the definition of the Settlement Class. |

| Settlement Terminology | |
|--|--|
| Term | Definition |
| Claim Form | Proof of Claim and Release for the Exchange-Based Plaintiffs' Settlement with Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 11, 2024) [ECF No. 4012-10]. |
| Claims Administrator or Settlement Administrator | A.B. Data, Ltd. |
| Huntington Bank | Escrow Agent for the Settlement. |
| Publication Notice | Publishing the Summary Notice one time in <i>IBD Weekly</i> and one time in <i>The Wall Street Journal</i> and press release over <i>PR Newswire</i> which, in addition to print format, included broadcast and digital websites across the United States. |
| Postcard Notice or Notice | The Postcard Notice of Class Action Settlement, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 11, 2024) [ECF No. 4012-3]. |
| Net Settlement Fund | The Settlement Fund less Court-approved disbursements, including: (i) notice, claims administration, and escrow costs; (ii) any attorneys' fees and/or expenses awarded by the Court; and (iii) all other expenses, costs, Taxes, Tax Expenses, and other charges approved by the Court. |
| Notice Program | The notice protocol detailed in the Declaration of Elaine Pang Regarding Notice Program, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 9, 2024) [ECF No. 4012]. |
| Period 0 | January 1, 2005 through August 8, 2007. |

| Settlement Terminology | |
|-------------------------------|---|
| Term | Definition |
| Periods 1 and 2 | August 2007 through April 14, 2009. |
| Period 3 | April 15, 2009 through May 2010. |
| Plaintiffs' Counsel | Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP. |
| Plan of Distribution | Plan of Distribution for the Exchange-Based United States Dollar LIBOR Settlement, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 11, 2024) [ECF No. 4012-7]. |
| Preliminary Approval Order | Order (1) Preliminarily Approving Settlement with Defendants Credit Suisse AG, Lloyds Bank plc, Bank of Scotland plc, Natwest Markets plc, Portigon AG, Westdeutsche Immobilienbank AG, Royal Bank of Canada, RBC Capital Markets, LLC, Coöperatieve Rabobank U.A., The Norinchukin Bank, MUFG Bank, Ltd., and UBS AG; (2) Conditionally certifying the Settlement Class; (3) Appointing Settlement Class Counsel; (4) Approving Claims Administrator and Escrow Agent; (5) Approving Notice Program; (6) Preliminarily approving Plan Of Distribution; and (7) scheduling a Fairness Hearing, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 26, 2024) [ECF No. 4028]. |
| Prior Settlements | The separate settlements for which the Court granted Final Approval on September 17, 2020: (i) Barclays Bank plc; (ii) Citigroup Inc., Citibank, N.A., and Citigroup Global Markets Inc.; (iii) Deutsche Bank AG, Deutsche Bank Securities Inc., and DB Group Services (UK) Ltd.; (iv) HSBC Bank plc; (v) JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. and Bank of America Corporation and Bank of America, N.A.; and (vi) Société Générale, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262, (Sept. 17, 2020) [ECF No. 3175-80]. |
| Settlement Class Period | January 1, 2003 through May 31, 2011. |
| Settlement Fund | The aggregate cash consideration provided for in the Settlement, which is \$3,450,000, plus any interest that may accrue on it. |
| Settlement Website | www.USDLiborEurodollarSettlements.com . |
| Summary Notice | The Summary Notice of Class Action Settlement, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (Apr. 11, 2024) [ECF No. 4012-4]. |

| Declarations | |
|---------------------|---|
| Term | Definition |
| Joint Decl. | The Joint Declaration of David E. Kovel and Christopher Lovell in Support of (A) Exchange-Based Plaintiffs' Motion for Final Approval of Class Action Settlement, and (B) Exchange-Based Plaintiffs' Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses. |
| Ewashko Decl. | The accompanying Declaration of Jack Ewashko on Behalf of A.B. Data, Ltd. Regarding Notice and Claims Administration for Class Action with Settling Defendants. |

| Other Defined Terms | |
|---------------------|---|
| Term | Definition |
| 2018 Advisory Note | Fed. R. Civ. P. 23(e), Adv. Comm. Notes to 2018 Amendments. |
| Action | The action captioned <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 (S.D.N.Y.). |
| CEA | Commodity Exchange Act. |
| CFTC | United States Commodity Futures Trading Commission. |
| DOJ | United States Department of Justice. |
| Eurodollar Futures | Eurodollar futures contracts and options on Eurodollar futures contracts. |
| FCA | United Kingdom Financial Conduct Authority. |
| LIBOR | London Interbank Offered Rate. |
| Operative Complaint | Fifth Amended Consolidated Class Action Complaint, <i>In re LIBOR-Based Fin. Instruments Antitrust Litig.</i> , No. 11 Md. 2262 [ECF No. 3510]. |
| SEC | United States Securities and Exchange Commission. |
| Second Circuit | United States Court of Appeals for the Second Circuit. |

Pursuant to 28 U.S.C. §1746, we, David E. Kovel and Christopher Lovell, declare:

1. We are, respectively, partners of the law firms of Kirby McInerney LLP (“Kirby McInerney”) and Lovell Stewart Halebian Jacobson LLP (“Lovell Stewart,” and together with Kirby McInerney, “Plaintiffs’ Counsel” or “Interim Co-Lead Counsel”). The Court appointed Kirby McInerney and Lovell Stewart as interim co-lead counsel for the Exchange-Based Plaintiffs (“Plaintiffs”) and the putative class in the above-captioned action (the “Action”). *See generally In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2011 WL 5980198 (S.D.N.Y. Nov. 29, 2011), ECF No. 66; *see also* Pre-Trial Order No. 1, ECF No. 90, at ¶ 18.¹ The Exchange-Based Plaintiffs represent a proposed Settlement Class of those persons who transacted in Eurodollar Futures and options on Eurodollar Futures (“Eurodollar Futures”). By Order dated April 26, 2024, the Court appointed Kirby McInerney and Lovell Stewart as Settlement Class Counsel for the proposed Settlement Class. *See* Preliminary Approval Order, ECF No. 4028. We have significant experience litigating antitrust and commodity futures class actions, including settlements thereof; we have been actively involved in prosecuting this Action since its inception, are familiar with its proceedings; and we have personal knowledge of matters set forth herein.

2. We respectfully submit this Declaration in support of the motions by Exchange-Based Plaintiffs for final approval of the Settlement with Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS (the “Exchange-Based Settlement” or “Settlement”), certification of the Settlement Class, approval of the Plan of Distribution for allocating the proceeds of the Settlement to eligible Settlement Class Members

¹ Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed in the “Table of Defined Terms.” All references to “ECF No.” herein refer to documents in the docket of the MDL Action, No. 11-MD-2262 (NRB) unless otherwise specified.

(the “Plan of Distribution”), and an award of attorneys’ fees and payments of litigation expenses (the “Fee and Expense Application”).

3. This Declaration is submitted in support of the Settlement and we believe is inadmissible in any subsequent proceedings, other than in connection with the approval of the Settlement. If the Settlement is not approved by the Court, we believe that this Declaration and the statements contained herein are without prejudice to the Exchange-Based Plaintiffs’ position on the merits of the Exchange-Based Action.

I. INTRODUCTION

4. If approved, the proposed Settlement, consisting of a \$3,450,000 cash payment, would completely resolve the pending litigation in the Exchange-Based Action. This Settlement brings the total settlement amount in the Exchange-Based Action to \$190,450,000.² Collectively, the Exchange-Based settlements continue to represent the largest recovery for a “futures-only” class asserting claims under the CEA. The Settlement, which was negotiated at arm’s length by experienced counsel, is reasonable and appropriate and is deserving of preliminary approval by the Court.

5. The settlement amount paid by Settling Defendants is non-reversionary; if the Court grants final approval of the Settlement and the Settlement otherwise becomes effective and final as defined in the Settlement, no money will be returned to the Settling Defendants regardless of how many Settlement Class Members submit proofs of claim or are entitled to payment. Further, the Settlement provides an immediate cash benefit to the Settlement Class while avoiding the substantial risk, expense, and delay of seeking to take this Action to trial against Settling

² On September 17, 2020, this Court granted Final Approval of settlements with: (i) Barclays Bank plc; (ii) Citigroup Inc., Citibank, N.A., and Citigroup Global Markets Inc.; (iii) Deutsche Bank AG, Deutsche Bank Securities Inc., and DB Group Services (UK) Ltd.; (iv) HSBC Bank plc; (v) JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. and Bank of America Corporation and Bank of America, N.A.; and (vi) Société Générale. *See* ECF Nos. 3175-80.

Defendants and seeking to obtain a litigated class. These risks include that the Settlement Class would recover less than the amount of the Settlement Fund at trial, or nothing at all, after additional years of litigation. We respectfully submit that the fact that Exchange-Based Plaintiffs achieved these results despite the significant legal risks to the Exchange-Based Plaintiffs that repeatedly manifested throughout the litigation underscores the reasonableness of the settlement.

6. Settlement Class Counsel believes that the Settlement is procedurally and substantively fair and respectfully recommends the Court's approval. Throughout the pendency of this Action, Settlement Class Counsel conducted the extensive settlement negotiations on behalf of Plaintiffs with counsel for Defendants. Kirby McInerney was principally responsible for conducting the last round of negotiations with Settling Defendants while providing regular updates to Lovell Stewart. Plaintiffs and Settlement Class Counsel had a thorough understanding of the strengths and weaknesses of the claims asserted in the Action at the time they reached the Settlement. During the last rounds of settlement negotiations, Kirby McInerney respectfully submits that there was no collusion or preference among counsel for the Parties to the Settlement, and on that basis Lovell Stewart agrees with this assessment. Instead, the Settlement was reached only after extensive, hard-fought, arm's-length negotiations that were undertaken in good faith by experienced legal counsel for the parties. We believe the Settlement confers a substantial immediate benefit to the Settlement Class and is eminently fair, reasonable, and adequate given the legal hurdles and risks involved in proving liability and damages.

7. The Plan of Distribution, which is available for download and review at the Settlement Website, provides that a Settlement Class Member who submits an acceptable Proof of Claim will receive his, her, or its *pro rata* share of the "Net Settlement Fund," *i.e.*, the Settlement Fund less specific court-approved fees and expenses. Specifically, the Plan provides for

distribution of 75% of the Net Settlement Fund on the basis of *pro rata* “Recognized Net Loss” and 25% on the basis of *pro rata* “Recognized Volume,” subject to a guaranteed minimum payment of \$20. The Plan of Distribution is substantively identical to the one previously approved by the Court. *See* Section V, *infra*.

8. Although the deadline to file requests for exclusions and objections is not until August 15, 2024, the initial reaction of the Settlement Class to the Settlement is favorable. Significantly, following the distribution of approximately 12,581 Postcard Notices to potential Settlement Class Members, no objections have been filed to date to any aspect of the Settlement, the Plan of Distribution, or Settlement Class Counsel’s fee request. *See* Sections IV and V, *infra*. The deadline for Settlement Class Members to file objections and requests for exclusions from the Settlement is August 15, 2024. *Id.*

9. Since the inception of this litigation, Plaintiffs’ Counsel has committed a substantial amount of time and resources to this Action and have prosecuted this case on a wholly contingent basis and by doing so, assumed the risk of an unfavorable result. *See* Section VI, *infra*. The work performed by Plaintiffs’ Counsel is described herein as well as in individual declarations submitted by each firm. *See* Section VI, *infra*; Exs. B-C. For the reasons set forth in these declarations and the accompanying memorandum of law, we respectfully request that the Court award attorneys’ fees (*see* Section VI.A., *infra*), and reimburse litigation expenses (*see* Section VI.B., *infra*).

II. SUMMARY OF CLAIMS AND THE PROCEDURAL HISTORY OF THE LITIGATION

10. On April 15, 2011, an Exchange-Based Plaintiff, FTC Capital GmbH, and its associated entities, represented by Kirby McInerney, filed the first complaint in what became the consolidated LIBOR actions. The complaint alleged that Defendants and others manipulated the price of U.S. Dollar LIBOR (“LIBOR”) and Eurodollar futures in violation of Section 9(a) of the

CEA, 7 U.S.C. § 13(a), agreed to fix and suppress LIBOR in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 (“Sherman Act”), and were unjustly enriched by such manipulation and agreement in violation of the common law. *See* Class Action Complaint, *FTC Capital GmbH et al. v. Credit Suisse Group AG et al.*, No. 11 Civ. 2613 (S.D.N.Y. Apr. 15, 2011), ECF No. 1.

11. On November 29, 2011, the Court consolidated all LIBOR-related class action complaints pending before the Court. *See* ECF No. 66. The Court appointed Kirby McInerney and Lovell Stewart as Interim Co-Lead Counsel for the Exchange-Based Plaintiffs. *Id.*

12. On December 22, 2011, this Court entered Pretrial Order No. 1. *See* ECF No. 90. Among other things, this Order invested Interim Co-Lead Counsel with both the responsibility and the authority to “negotiate with defense counsel with respect to settlement and other matters,” “[t]o request that the Court approve settlements, if any, and fee awards,” and “[t]o perform such other duties and to undertake such other responsibilities as [Interim Co-Lead Counsel] deem[s] necessary or desirable in the prosecution of this litigation.” *Id.* ¶ 18.

13. On April 30, 2012, Plaintiffs filed their Amended Consolidated Class Action Complaint. *See* ECF No. 134. It alleged that Defendants and others manipulated the LIBOR rate and the price of Eurodollar futures and options contracts in violation of Section 9(a) of the CEA, were liable for the manipulative acts of agents, representatives, and/or other persons acting for Defendants under Section 2(a)(1) of the CEA, 7 U.S.C. §2(a)(1), aided and abetted violations of Section 9(a) of the CEA, agreed to fix and suppress LIBOR in violation of the Sherman Act, and were unjustly enriched. In particular, Exchange-Based Plaintiffs were responsible for overseeing the development of the econometric analyses, on behalf of the Bondholder, Exchange-Based, and OTC Plaintiffs, which the Second Circuit found persuasive evidence of antitrust conspiracy (as described herein ¶ 25).

14. On March 29, 2013, after extensive motion practice by Plaintiffs and Defendants, the Court issued a 161-page Memorandum and Order. Therein, the Court, among other things: (1) granted Defendants' motion to dismiss Plaintiffs' federal antitrust claim and unjust enrichment claim; (2) granted Defendants' motion to dismiss with respect to Plaintiffs' commodity manipulation claims based on Eurodollar futures and options contracts purchased during Period 1 (August 9, 2007 to May 29, 2008); (3) denied Defendants' motion to dismiss with respect to Plaintiffs' commodity manipulation claims based on Eurodollar futures and options contracts purchased during Period 2 (May 30, 2008 to April 14, 2009) and Period 3 (April 15, 2009 to May 2010); and (4) allowed Plaintiffs to move to amend their complaint to include allegations based on information derived from the Barclays settlements with government agencies. *See generally In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 935 F. Supp. 2d 666 (S.D.N.Y. 2013) ("*LIBOR I*"), ECF No. 286.

15. On August 23, 2013, after further extensive motion practice by Plaintiffs and Defendants, the Court issued a 65-page Memorandum and Order. Therein, the Court, among other things: (1) denied Plaintiffs' motion to add allegations with respect to antitrust and trader-based manipulation; (2) denied Defendants MUFG, Credit Suisse, and Norinchukin's motion for reconsideration without prejudice; and (3) allowed Plaintiffs to file a second amended complaint in conformity with that Memorandum and Order, which included allowing Plaintiffs leave to name Société Générale as a defendant. *See generally In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 962 F. Supp. 2d 606 (S.D.N.Y. 2013) ("*LIBOR II*"), ECF No. 389.

16. On September 10, 2013, Plaintiffs filed the Second Amended Consolidated Class Action Complaint, ECF No. 407, and as corrected ECF No. 438 ("CSAC"). Notably, Plaintiffs' CSAC materially expanded the scope of the existing claims in the MDL to allege LIBOR

manipulation pre-dating August 2007 and trader-based manipulation based on evidence obtained from government settlements. Exchange-Based Plaintiffs continue to be the only putative class representatives to actively pursue such claims in the MDL. Plaintiffs' "Period 0" trader-based manipulation theory of liability materially enhanced claims against Defendants.

17. On October 7, 2013, after still further extensive motion practice by Defendants and Plaintiffs, the Court issued a Memorandum and Order. Therein, the Court: (1) granted Defendants' request for leave to file their renewed motion to dismiss Plaintiffs' Period 2 CEA Claims; and (2) stayed a decision on the permissible content of the CSAC until resolution of other then-pending motions. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2013 WL 5570424 (S.D.N.Y. Oct. 7, 2013), ECF No. 452.

18. On June 23, 2014, after even more substantial motion practice by Plaintiffs and Defendants, the Court issued an 80-page Memorandum and Order. Therein, the Court: (1) denied Plaintiffs' motion for reconsideration of the Court's August 23, 2013 Order; (2) granted Plaintiffs' motion for leave to amend their complaint to add certain allegations of day-to-day, trader-based manipulation; (3) denied Defendants' motion for reconsideration of the Court's holding that Plaintiffs had adequately pled scienter in connection with their CEA claims; and (4) granted Defendants' motion to dismiss Plaintiffs' commodity manipulation claims based on Eurodollar futures and options contracts purchased during Period 2 (May 30, 2008 to April 14, 2009). *See generally In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 27 F. Supp. 3d 447 (S.D.N.Y. 2014) ("*LIBOR III*"), ECF No. 568. Notably, the Court sustained certain of Plaintiffs' trader-based manipulation claims against Defendants Barclays and Rabobank.

19. On May 27, 2015, Plaintiffs respectfully requested that the Court reconsider its *LIBOR I* and *LIBOR III* decisions based on the Second Circuit's summary order in *BPP III, LLC*

v. Royal Bank of Scotland Grp. PLC, 603 F. App'x 57 (2d Cir. 2015) (“*BPP II*”) as it related to the timeliness of portions of Plaintiffs’ CEA claims. *See* ECF No. 1142. On September 30, 2015, Plaintiffs renewed their request for reconsideration and in the alternative sought interlocutory review of the Court’s *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2015 WL 4634541 (S.D.N.Y. Aug. 4, 2015) (“*LIBOR IV*”), ECF No. 1164, statute of limitations analysis as it related to the CEA claims. *See* ECF No. 1214. On October 29, 2015, the Court denied Plaintiffs’ request for reconsideration of *LIBOR I* and *LIBOR III* and in the alternative for interlocutory review. *See* ECF No. 1229.

20. On January 16, 2015, certain Defendants, including Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, and MUFG, moved to dismiss Plaintiffs’ CEA suppression claims for lack of personal jurisdiction. *See* ECF No. 966.

21. On June 29, 2015, Plaintiffs submitted a letter motion requesting leave to file Plaintiffs’ [Proposed] Third Amended Complaint (“PTAC”). *See* ECF No. 1159. In this complaint, Plaintiffs relied heavily on cooperation material provided pursuant to the “icebreaker” Barclays Settlement to develop allegations against new Defendants, including RBC Capital Markets, LLC, and strengthen existing allegations against NatWest and RBC.

22. On November 3, 2015, after further extensive motion practice by Defendants and Plaintiffs, the Court issued a 67-page Memorandum and Opinion that, among other things, granted in part and denied in part Defendants’ motion to dismiss for lack of personal jurisdiction. Specifically, the Court granted certain foreign defendants’ motion to dismiss on jurisdictional grounds. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2015 WL 6696407 (S.D.N.Y. Nov. 3, 2015) (“*LIBOR V*”), ECF No. 1234.

23. On January 29, 2016, Rabobank filed a pre-motion letter concerning a proposed motion to strike Plaintiffs' class action allegations insofar as they related to trader-based manipulation claims. *See* ECF No. 1308. On May 13, 2016, after further extensive motion practice by Rabobank and Plaintiffs, the Court issued a Memorandum and Order that, among other things, denied Rabobank's request to file a motion to strike class allegations from Plaintiffs' complaint. ECF No. 1408.

24. On April 15, 2016, the Court issued a Memorandum and Order granting Plaintiffs' leave to file the PTAC within the confines of the Order. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2016 WL 1558504, at *8-11 (S.D.N.Y. Apr. 15, 2016), ECF No. 1380. In particular, the Court sustained trader-based manipulation allegations against Deutsche Bank. Furthermore, in this opinion, the Court also articulated class standing requirements for episodic trader-based manipulation claims against specific Defendants and dismissed persistent suppression claims with respect to certain Defendants, including Credit Suisse, Lloyds, Portigon, Norinchukin, and MUFG for failure to allege a prima facie case of personal jurisdiction.

25. On May 23, 2016, the Second Circuit vacated the Court's ruling in *LIBOR I*, reinstated Exchange-Based Plaintiffs' antitrust claim, and remanded the case for further proceedings. *See Gelboim v. Bank of Am. Corp.*, 823 F.3d 759 (2d Cir. 2016). Subsequently, all remaining Defendants, including Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS, sought to dismiss Exchange-Based Plaintiffs' antitrust claim on antitrust standing grounds, and certain Defendants sought to dismiss Exchange-Based Plaintiffs' antitrust claims on personal jurisdiction grounds.

26. On June 17, 2016, the Court issued an Order denying a stay of class action discovery because of the pendency of the anticipated motions to dismiss. *See* ECF No. 1461. Plaintiffs subsequently engaged in extensive review of discovery materials previously produced to government regulators by Defendants.

27. On December 2, 2016, C2 Capital Management, LLC (“C2C”), represented by Plaintiffs’ Counsel, sought leave to intervene as of right or, in the alternative, through permissive intervention, as an additional named Exchange-Based Plaintiff. *See* ECF No. 1659. In accord with the Court’s April 15, 2016 Order, C2C’s intervention as an additional named plaintiff would benefit the class by ensuring an additional class representative whose trades covered substantial portions of the class period. *Id.*

28. On December 20, 2016, the Court granted in part Defendants’ motion to dismiss the antitrust claims for lack of antitrust standing and granted certain Defendants’ motion to dismiss the antitrust claims with respect to personal jurisdiction. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2016 WL 7378980 (S.D.N.Y. Dec. 20, 2016) (“*LIBOR VI*”), ECF No. 1676. In particular, Plaintiffs’ antitrust claims against Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS were dismissed pursuant to this order.

29. On January 13, 2017, Plaintiffs sought leave to file a [Proposed] Fourth Amended Complaint in light of the Second Circuit’s *Gelboim* decision and this Court’s ruling in *LIBOR VI*. ECF No. 1726. On April 20, 2017, after further motion practice, the Court issued a Memorandum and Order granting Plaintiffs’ request for leave to file their proposed Fourth Amended Complaint within the confines of the Order, while denying the request of C2C for leave to intervene, as well as Plaintiffs’ motion for reconsideration of *LIBOR VI*. *See* ECF No. 1859. In accordance with the

April 20, 2017 Order, Plaintiffs filed their Fourth Amended Complaint on September 29, 2017 which conformed to the Court's prior rulings and supplemented Plaintiffs' efficient enforcer analysis. *See* ECF Nos. 2292, 2294.

30. On March 24, 2017, Plaintiffs asked the Court for leave to file a motion pursuant to Rule 54(b) to certify as a partial final judgment the Court's orders in Exchange-Based Plaintiffs' case dismissing Plaintiffs' persistent suppression claims on personal jurisdiction grounds against certain foreign Defendants based on claims arising under the CEA and antitrust law.³ *See* ECF No. 1828. In an Order dated May 3, 2017, the Court suggested that Plaintiffs submit a proposed Rule 54(b) order. *See* ECF No. 1896.

31. On May 2, 2017, Plaintiffs submitted their motion to certify this action as a class action for their antitrust and CEA claims against the remaining non-settling defendants. *See* ECF Nos. 1885, 1890-91. The motion was fully briefed by the parties.

32. Following this Court's judgment dismissing the 2011 Schwab Plaintiffs action in its entirety, filed on April 27, 2017, ECF No. 1877, Plaintiffs submitted a proposed Rule 54(b) order on May 16, 2017. *See* ECF No. 1922.

33. In an Order dated June 8, 2017, the Court advised those plaintiffs who had previously sought an order entering partial final judgment of *LIBOR VI*, and who were identified in the appendix to the June 8, 2017 Order, to revise their proposed orders to parallel the wording of the OTC Plaintiffs' order. *See* ECF No. 1962.

34. On June 19, 2017, Plaintiffs submitted a revised proposed amended Rule 54(b) order. *See* ECF No. 1986.

³ *See LIBOR V*, 2015 WL 6696407, at *19-20 (dismissing persistent suppression CEA claims against certain Foreign Defendants on personal jurisdiction grounds); *LIBOR VI*, 2016 WL 7378980, at *2-13 (dismissing Foreign Defendants on personal jurisdiction grounds on remand of antitrust claims).

35. On June 26, 2017, the Court entered an Order for Entry of Partial Final Judgment dismissing Plaintiffs’ antitrust claims against Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS on personal jurisdiction grounds for the reasons given in *LIBOR VI*. See ECF No. 1989.

36. On October 11, 2017, Plaintiffs filed their letter motion for preliminary approval of four separate settlements with: (i) Barclays Bank plc;⁴ (ii) Citigroup Inc., Citibank, N.A., and Citigroup Global Markets Inc.; (iii) Deutsche Bank AG, Deutsche Bank Securities Inc., and DB Group Services (UK) Ltd.; and (iv) HSBC Bank plc. See ECF No. 2307-1.

37. On December 12, 2017, Plaintiffs filed their motion for an order preliminarily approving a plan of distribution for the settlements with Barclays, Citi, Deutsche Bank and HSBC. See ECF Nos. 2365, 2383-85.

38. On February 28, 2018, the Court issued a Memorandum and Order denying Plaintiffs’ motion for class certification (the “February 28, 2018 Order”). See *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 299 F. Supp. 3d 430 (S.D.N.Y. Feb. 28, 2018) (“*LIBOR VII*”), ECF No. 2452.

39. On March 16, 2018, Plaintiffs filed a FED. R. CIV. P. 23(f) petition for permission to appeal the February 28, 2018 Order (the “March 16, 2018 Petition”) with the Second Circuit. See Motion for Leave to Appeal, *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 18-728 (2d Cir. Mar. 16, 2018), ECF No. 1. On March 26, 2018, Defendants UBS AG and Rabobank filed an answer to the March 16, 2018 Petition. See Opp. to Motion for Leave to Appeal, *In re*

⁴ On December 2, 2014, the Court granted preliminary approval of the Barclays Settlement. See *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262, 2014 WL 6851096 (S.D.N.Y. Dec. 2, 2014), ECF No. 861.

LIBOR-Based Fin. Instruments Antitrust Litig., No. 18-728 (2d Cir. Mar. 26, 2018), ECF Nos. 20-21.

40. On April 2, 2018, Plaintiffs filed their reply in support of the March 16, 2018 Petition. *See* Reply Br., *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 18-728 (2d Cir. Apr. 2, 2018), ECF No. 56.

41. On June 18, 2018, the Court held a settlement conference during which the Court, *inter alia*, made recommendations and asked questions about the contents of the proposed plan of distribution. Further, the Court requested that Plaintiffs implement revisions to the proposed plan of distribution. *See* ECF No. 2633.

42. On September 7, 2018, Plaintiffs filed their letter motion for preliminary approval of a settlement with defendants JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A., and Bank of America Corporation and Bank of America, N.A. *See* ECF No. 2728-1.

43. Additionally, on September 7, 2018, Plaintiffs filed their motion for an order preliminarily approving Plaintiffs' (1) notice program for settlements with Defendants BOA, Barclays, Citi, Deutsche Bank, HSBC, and JPMorgan; and (2) amended plan of distribution. *See* ECF No. 2729-1. This submission included Plaintiffs' redlined amended plan of distribution responding to the Court's comments and suggestions from the June 18, 2018 settlement conference. *See* ECF No. 2729-6.

44. On November 6, 2018, following oral argument in the Second Circuit in support of Plaintiffs' March 16, 2018 Petition, the Second Circuit denied Plaintiffs' Rule 23(f) petition because "an immediate appeal is not warranted." Order at 2, *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 18-728 (2d Cir. Nov. 6, 2018), ECF No. 83.

45. On March 25, 2019, the Court issued a lengthy opinion involving multiple related cases. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 Md. 2262 (NRB), 2019 WL 1331830 (S.D.N.Y. Mar. 25, 2019) (“*LIBOR VIII*”), ECF No. 2837.

46. On April 16, 2019, the Court sent a letter concerning Plaintiffs’ redlined amended plan of distribution. The Court pointed out the denial of the Rule 23(f) petition by the Second Circuit, and the findings made in *LIBOR VII* about the unreliability of Plaintiffs’ experts and the reliability of Defendants’ experts. *See* ECF No. 2853. Noting the use in the prior proposed plan of net loss as one of the metrics of compensation, the Court posed various questions, including whether all the settlement monies could or should be distributed by means of the net loss method. *Id.* On May 24, 2019, Plaintiffs responded to the Court’s questions. *See* ECF No. 2875.

47. On August 12, 2019, Plaintiffs filed their motion for an order preliminarily approving a Revised Plan of Distribution. *See* ECF Nos. 2954-57.

48. On September 4, 2019, the Court granted Plaintiffs’ motion for preliminary approval of the Revised Plan of Distribution. *See* ECF No. 2973.

49. On January 23, 2020, Plaintiffs filed their motion for an order preliminarily approving the settlement with SG. *See* ECF No. 3023.

50. On March 2, 2020, the Court granted preliminary approval of Plaintiffs’ settlements with BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG. *See* ECF No. 3038.

51. On August 13, 2020, Plaintiffs filed their motion for final approval of the class action settlements with BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG. *See* ECF No. 3141.

52. On September 17, 2020, the Court held a fairness hearing in connection with Plaintiffs' motion for final approval of the class action settlements with BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG.

53. On September 17, 2020, the Court entered final judgment and final approval of the class action settlements with BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG. *See* ECF Nos. 3175-80.

54. On December 30, 2021, the Second Circuit vacated in part the Court's ruling in *LIBOR V* and reinstated Exchange-Based Plaintiffs' antitrust claim against Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS. *See Schwab Short-Term Bond Mkt. Fund v. Lloyds Banking Grp. plc*, 22 F.4th 103 (2d Cir. 2021), *cert. denied*, 142 S. Ct. 2852 (2022).

55. On September 6, 2022, Plaintiffs filed a stipulation and proposed order dismissing without prejudice all claims against certain Defendants, substituting certain Defendants, and proposing to file a Fifth Amended Consolidated Class Action Complaint. *See* ECF No. 3508.

56. On September 7, 2022, Plaintiffs filed their Fifth Amended Consolidated Class Action Complaint. *See* ECF No. 3510.

57. On February 27, 2023, Plaintiffs filed a letter-motion requesting a pre-motion conference concerning Plaintiffs' motion for class certification against previously dismissed Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS. *See* ECF No. 3638. On April 24, 2023, the Court denied Plaintiffs' letter-motion requesting a pre-motion conference concerning Plaintiffs' motion for class certification. *See* ECF No. 3658.

58. On September 7, 2023, Plaintiffs filed a motion authorizing Plaintiffs to distribute the BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG Net Settlement Funds to Claimants and reimburse the Claims Administrator. *See* ECF No. 3723.

59. On October 24, 2023, the Court authorized Plaintiffs to distribute the BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG Net Settlement Funds to Claimants and reimburse the Claims Administrator. *See* ECF No. 3840. The distribution of the Net Settlement Funds is ongoing.

60. On April 9, 2024, Plaintiffs filed a motion seeking preliminary approval of the Settlement. *See* ECF No. 4006. On April 26, 2024, the Court entered an order: (1) preliminarily approving settlement with Defendants Credit Suisse AG, Lloyds Bank plc, Bank of Scotland plc, Natwest Markets plc, Portigon AG, Westdeutsche Immobilienbank AG, Royal Bank of Canada, RBC Capital Markets, LLC, Coöperatieve Rabobank U.A., The Norinchukin Bank, MUFG Bank, Ltd., and UBS AG; (2) conditionally certifying the Settlement Class; (3) appointing Settlement Class Counsel; (4) approving Claims Administrator and Escrow Agent; (5) approving Notice Program; (6) preliminarily approving Plan Of Distribution; and (7) scheduling a Fairness Hearing. *See* ECF No. 4028.

III. THE SETTLEMENT NEGOTIATIONS

61. In the thirteen-year pendency of the Exchange-Based Plaintiffs' Action, Settlement Class Counsel undertook extensive legal and factual analyses of the Exchange-Based Plaintiffs' claims. Settlement Class Counsel have reviewed transcripts of LIBOR-related material, analyzed discovery (which consisted of documents previously produced by each of the Defendants to government regulators), and worked in depth with consulting and testifying experts. As a result, Settlement Class Counsel were well-informed of the facts and issues concerning liability and damages and the relative strengths and weaknesses of each side's litigation position.

62. Plaintiffs' Settlement with Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS is the eighth and final settlement by Exchange-Based Plaintiffs in the litigation following its settlements with Defendants BOA, Barclays, Citi, Deutsche Bank, HSBC, JPMorgan, and SG. If approved, the proposed Settlement, consisting of a \$3,450,000 cash payment, would completely resolve the pending litigation in the Exchange-Based Action.

63. The Settlement is the culmination of extremely hard-fought, arm's-length negotiations by counsel highly experienced in complex antitrust matters and was reached following renewed settlement discussions that spanned several months, after prior attempts to resolve claims with individual Settling Defendants failed.

64. In preparation for and during the pendency of settlement negotiations with Settling Defendants, Exchange-Based Plaintiffs' Counsel, *inter alia*, reviewed documents produced by the Settling Defendants and compiled evidence relating to Settling Defendants.

65. That investment of attorney time ensured Class Counsel were well prepared to pursue Exchange-Based Plaintiffs' claims against Settling Defendants and to advance settlement negotiations with Settling Defendants.

66. On January 30, 2024, counsel for Plaintiffs and for Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS advised the Court of the Settlement subject to further documentation. Subsequently, counsel for the settling parties negotiated the remaining terms of the Settlement Agreement.

67. The Stipulation, which was executed by the parties on April 8, 2024, reflects the terms of the Settlement, including a settlement amount of \$3,450,000 and the scope of the release of claims. *See* ECF No. 4011-1.

68. At all times, both sides vigorously negotiated their respective positions. Exchange-Based Plaintiffs' Counsel were well-informed of the facts and issues concerning liability and damages and the relative strengths and weaknesses of each side's litigation position.

69. The aggregate Settlement Fund, minus fees and expenses awarded by the Court, will be available to be distributed to eligible members of the Exchange-Based Settlement Class. The settlement amount paid by Settling Defendants is non-reversionary; if the Court grants final approval of the Settlement and the Settlement otherwise becomes effective and final as defined in the Settlement, no money will be returned to Settling Defendants, regardless of how many Settlement Class Members submit proofs of claim or are entitled to payment.

IV. EXECUTING THE COURT'S PRELIMINARY APPROVAL ORDER RELATING TO CLASS NOTICE

70. Pursuant to the Preliminary Approval Order, Settlement Class Counsel and the Court-approved Settlement Administrator, A.B. Data, Ltd. ("A.B. Data") implemented a notice program whereby notice was given to potential Settlement Class Members by mail and publication.

71. The Court-approved Notice disclosed, among other things, the following information to Settlement Class Members: (1) the \$3,450,000 million aggregate Settlement Fund; (2) that the Plan of Distribution was available on the Settlement Website; (3) that Settlement Class Counsel would apply for an award of attorneys' fees in an amount not to exceed one third of the Settlement Fund and reimbursement for litigation costs and expenses incurred, and that any Settlement Class Member could object to the requested fees and expenses; (4) that requests for exclusion from the Settlement must be mailed to the Settlement Administrator postmarked no later than August 15, 2024; (5) that objections to the Settlement, Plan of Distribution, or the Fee and Expense Application must be received and filed (not simply postmarked) no later than August 15, 2024; and (6) that the deadline for filing new or revised Claim Forms is October 21, 2024. In

addition, the Notice explained that if a Settlement Class Member previously submitted a valid claim in the Prior Settlements, they did not need to submit another Proof of Claim to participate in this Settlement unless they wished to amend their claim.

72. Annexed hereto as Exhibit A is the Declaration of Jack Ewashko on Behalf of A.B. Data, Ltd. Regarding Notice and Claims Administration for Exchange-Based Plaintiffs' Class Action Settlement with the Settling Defendants (the "Ewashko Decl."). Pursuant to the Court-approved notice program, A.B. Data mailed by first-class mail, in the aggregate, 12,581 Postcard Notices to potential Settlement Class Members (¶¶ 8-10). In addition, the Ewashko Declaration describes, *inter alia*, A.B. Data's efforts in providing publication notice (¶¶ 11-12), updating and maintaining the Settlement website (¶¶ 13-16), and responding to Settlement Class Members' inquiries (¶¶ 14, 17-18).

73. As of July 30, 2024 (the date of execution of the Ewashko Declaration), no additional requests for exclusion had been received. *See* Ewashko Decl. ¶ 20; ¶ 8, *supra*; and Exhibit B to the Supplemental Declaration of Steven Straub on Behalf of A.B. Data, Ltd. Regarding Objections and Requests for Exclusion dated September 10, 2020, ECF No. 3171-1. To date, no objections to the Settlement, the Plan of Allocation, or the maximum amounts listed in the Notice that Settlement Class Counsel would seek for an award of attorneys' fees and reimbursement of litigation expenses, have been entered on this Court's dockets or have otherwise been received by Settlement Class Counsel. Ewashko Decl. ¶ 19. Settlement Class Counsel will file reply papers on August 29, 2024 to address any additional requests for exclusion and any objections that may be received.

V. THE PLAN OF DISTRIBUTION

74. The Plan of Distribution is substantively identical to the previously approved Corrected Plan of Distribution in connection with the prior Exchange-Based Settlements and found by the Court as fair and adequate.⁵ *See* ECF Nos. 3175-80.⁶

75. By way of summary, the payment methods employed by the Plan of Distribution have been previously approved in prior futures contract price manipulation litigation and have a rational basis. The Plan of Distribution provides each Authorized Claimant his, her, or its pro rata share of the Net Settlement Fund. Specifically, the Plan of Distribution provides for distribution of 75% of the Net Settlement Fund on the basis of pro rata “Recognized Net Loss” and 25% on the basis of pro rata “Recognized Volume,” subject to a guaranteed minimum payment of \$20. *See* ECF No. 4012-7.

76. As noted above, 12,581 copies of the Postcard Notice, which indicates that a copy of the Plan of Distribution is available on the Settlement Website, have been disseminated. *See* Ewashko Decl. ¶¶ 8-10 and Ex. A. The Plan of Distribution is posted on the Settlement Website. *Id.* ¶ 13. To date, no objections to the Plan of Distribution have been received. *Id.* ¶ 19.

VI. PLAINTIFFS’ COUNSEL’S APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES

77. For their efforts on behalf of the Settlement Class, Plaintiffs’ Counsel seek an award of attorneys’ fees to compensate them for the services they have rendered on behalf of the Settlement Class. *See* Section VI.A., *infra*. Plaintiffs’ Counsel also requests reimbursement of

⁵ The Plan of Distribution was formulated by experienced counsel with the assistance of nationally recognized mediator, Kenneth Feinberg, Esq., and implemented the revisions that the Court proposed during the June 18, 2018 conference. *See* ECF No. 2729-3 at 4-5.

⁶ A single objector previously objected to the Revised Plan of Distribution, arguing that the Net Settlement Fund should be distributed equally between Recognized Net Loss and Recognized Volume. *See* ECF No. 3171-1 at 5-8 (Objection to the Plan of Distribution). The Court overruled the objection and approved the Revised Plan of Distribution. *See* ECF Nos. 3175-80.

expenses incurred in connection with the prosecution of this Action in the amount of \$135,349.19.

See Section VI.B., *infra*.

A. Plaintiffs' Counsel's Fee Request

78. During the period between August 13, 2020 and July 26, 2024, Settlement Class Counsel committed a substantial amount of time and resources to this Action and have prosecuted this case on a wholly contingent basis and by doing so, assumed the risk of an unfavorable result. As described below, Plaintiffs' Counsel's Fee Request seeks reimbursement of time and expenses incurred during the period between August 13, 2020 and July 26, 2024. The work performed by Settlement Class Counsel is described above as well as in the attached individual declarations submitted by Kirby McInerney and Lovell Stewart. Plaintiffs' Counsel seek an award of attorneys' fees in the amount of 30% of the remainder of the Settlement Fund minus the amount of the reimbursement ordered by the Court of Counsel's litigation expenses, to compensate them for the services they have rendered on behalf of the Settlement Class.

79. Annexed hereto as Exhibit B is the Declaration of David E. Kovel in Support of Interim Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses Filed on Behalf of Kirby McInerney LLP with Exhibits 1 (lodestar report), 2 (litigation expenses report), and 3 (firm resume).

80. Annexed hereto as Exhibit C is the Declaration of Benjamin M. Jaccarino in Support of Interim Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses Filed on Behalf of Lovell Stewart Halebian Jacobson LLP with Exhibits 1 (lodestar report), 2 (expenses report), and 3 (firm resume).

81. Based upon the foregoing declarations, we make the following statements as summaries. Between August 13, 2020 and July 26, 2024, Plaintiffs' Counsel devoted a total of 1,354.96 hours in the prosecution of this Action, for a total lodestar of \$1,135,700.95. As set forth

herein and by the lodestar reports of Class Counsel, attached hereto as Ex. 1 in each of Plaintiffs' Counsel's attached declarations (Exs. B-C), Class Counsel has devoted a significant amount of time in the prosecution of this Action.

82. During the period of August 13, 2020 to July 26, 2024, for attorneys and professional support staff who billed five or more hours to the Action, the total number of hours expended by Plaintiffs' Counsel is 1,354.96 hours. The total lodestar is \$1,135,700.95, consisting of \$1,079,913.45 for attorneys' time and \$55,787.50 for professional support staff time. *See* Table 1, *infra*. The requested fee of \$994,395.24 (or 30% of the Settlement Fund less total expenses of \$135,349.19) results in a multiplier of 0.88 to Plaintiffs' Counsel's total submitted lodestar of \$1,135,700.95.

83. Plaintiffs' Counsel restricted time submitted to the period between August 13, 2020 and July 26, 2024, inclusive. Plaintiffs' Counsel do not seek fees in connection with work performed in connection with (i) securing approval of the Prior Settlements and (ii) work exclusively performed to facilitate the administration and distribution of the Prior Settlements. In addition, time expended on Settlement Class Counsel's application for attorneys' fees and reimbursement of litigation expenses has also been excluded. Each firm also reviewed its time and expenses for accuracy, necessity, and reasonableness. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment. *See* ¶ 3 in each of Plaintiffs' Counsel's attached declarations (Exs. B-C).

84. In addition, as set forth in their declarations, Plaintiffs' Counsel's lodestar figures are based upon the firms' current billing rates (subject to annual increases), and do not include charges for expense items. For personnel who are no longer employed by the firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment

by the firm (and capped at the reduced document-review rate). The declarants from each firm comprising Plaintiffs' Counsel attest that the hourly rates for the attorneys and professional support staff are in line with the rates by other lawyers at law firms handling large, complex class action litigation and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases. Annexed hereto as Exhibit D is a table prepared by Kirby McInerney in order to reflect billing rates for partners and non-partners at plaintiffs' firms in cases involving antitrust and other comparable complex class actions and for firms that regularly defend antitrust and comparable class actions compiled by Settlement Class Counsel from fee applications submitted by such firms.

85. The following chart summarizes the aggregate hours, lodestar, and expenses of Plaintiffs' Counsel set forth in the attached declarations. See ¶¶ 5, 7 and Exs. 1 and 2 in each of Plaintiffs' Counsel's attached declarations (Exs. B-C).

| TABLE 1: Plaintiffs' Counsel's Summary Hours, Lodestar, and Expenses | | | |
|---|-----------------|-----------------------|---------------------|
| FIRM NAME | HOURS | LODESTAR | EXPENSES |
| Kirby McInerney LLP | 1,221.90 | \$998,860.00 | \$113,531.53 |
| Lovell Stewart Halebian Jacobson | 133.06 | \$136,840.95 | \$21,817.66 |
| TOTAL: | 1,354.96 | \$1,135,700.95 | \$135,349.19 |

86. Based upon the attached declarations, we believe that Settlement Class Counsel's requested fee award is fair, reasonable, and justified, whether calculated as a percentage of the fund or as a multiple of counsel's lodestar.

B. Plaintiffs' Counsel's Litigation Expenses

87. Our statements and summaries in this section are based on the declarations set forth in Exhibits B through C. Through the pendency of this litigation, Settlement Class Counsel have sought to ensure that sufficient resources were dedicated to prosecuting Plaintiffs' claims. Plaintiffs' Counsel advanced the litigation expenses required to pursue and complete such complex

litigation with no guarantee of repayment. Based on the attached declarations, Plaintiffs' Counsel have incurred a total of \$135,349.19 (or 3.92% of the Settlement Fund) in unreimbursed expenses in connection with the prosecution of this Action. We believe these expenses were reasonably necessary to the prosecution of this Action and are of the type that Plaintiffs' Counsel normally incurs in litigation and that would be reimbursed by clients under fee arrangements where the client was paying expenses.

88. The following schedule was prepared from Exhibit 2 in each of the attached declarations. See ¶ 8 in each of Plaintiffs' Counsel's attached declarations (Exs. B-C). The litigation expenses reflected in Exhibit 2 are the actual incurred expenses, and do not contain any administrative charges.

| TABLE 2: CUMULATIVE EXPENSES BY CATEGORY | |
|---|----------------------------|
| EXPENSE CATEGORY | CUMULATIVE EXPENSES |
| Online Legal Research | \$6,795.67 |
| Document Retrieval (Including Pacer) | \$609.70 |
| Document Management/Litigation Support | \$77,333.26 |
| Local Travel | \$101.48 |
| Meals | \$45.08 |
| Experts | \$50,464.00 |
| TOTAL EXPENSES | \$135,349.19 |

VII. ADDITIONAL EXHIBITS

89. Annexed hereto as Exhibit E is a compendium of unreported cases, documents, and transcripts, in alphabetical order by case name, cited in the accompanying final approval settlement brief and fee brief.

VIII. CONCLUSION

90. In view of the recovery to the Settlement Class and the substantial risks of this Action, Settlement Class Counsel respectfully submit that: the Settlement should be approved as fair, reasonable and adequate; and the Plan of Allocation should be approved as fair and reasonable.

91. Plaintiffs' Counsel respectfully seek reimbursement of litigation expenses and an award of attorneys' fees in the amount of 30% of the remainder of the Settlement Fund minus the amount of the reimbursement ordered by the Court of Plaintiffs' Counsel's litigation expenses.

We certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 1, 2024 in New York, New York.

/s/ David E. Kovel

David E. Kovel

/s/ Christopher Lovell

Christopher Lovell

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

Master File No. 11-md-2262 (NRB)

THIS DOCUMENT RELATES TO:

METZLER INVESTMENT GmbH, et al.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.

Defendants.

**DECLARATION OF JACK EWASHKO ON BEHALF OF A.B. DATA, LTD.
REGARDING NOTICE AND CLAIMS ADMINISTRATION FOR EXCHANGE-BASED
PLAINTIFFS' CLASS ACTION SETTLEMENTS WITH SETTLING DEFENDANTS**

Pursuant to 28 U.S.C. §1746, I, Jack Ewashko, declare:

1) I am a Client Services Director of A.B. Data, Ltd.'s Class Action Administration Division ("A.B. Data"). I am over 21 years of age and am not a party to the above-captioned action. My business address is 600 A.B. Data Drive, Milwaukee, WI 53217, and my telephone number is 414-961-7555. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2) I submit this Declaration in order to provide the Court in the above-captioned class action litigation (the "Action") with information regarding the mailing of the Notice of Class Action Settlement ("Mail Notice"), Postcard Notice, and the Summary Notice of Class Action Settlements ("Summary Notice") and Proof of Claim and Release ("Claim Form"), maintenance

and updating of the settlement website, and other administrative activities for the settlement with the Remaining Defendants (defined herein) (the “Final Settlement”) with Credit Suisse AG (“Credit Suisse”), Lloyds Bank PLC and Bank of Scotland plc (together, “Lloyds”), NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) (“NatWest”), Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, “Portigon”), Royal Bank of Canada and RBC Capital Markets, LLC (together, “RBC”), Coöperatieve Rabobank U.A. (f/k/a/ Coöperatieve Centrale Raiffeisen- Boerenleenbank B.A.) (“Rabobank”), The Norinchukin Bank (“Norinchukin”), MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), and UBS AG (“UBS”) (together, Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS are referred to as the “Remaining Defendants”).

3) The Court appointed A.B. Data as the Claims Administrator for the prior settlements in this Action (the “Prior Settlements”).¹ A.B. Data continues to administrate the Prior Settlements in this Action.

DIRECT MAIL NOTICE

4) In connection with the Prior Settlements, on or about September 10, 2019, A.B. Data received from Co-Lead Counsel files containing both the names and addresses of Futures Commission Merchants (“FCMs”) that cleared and “large traders”² in LIBOR-based Eurodollar futures or options on the Chicago Mercantile Exchange (“CME”) during the Settlement Class Period. A.B. Data electronically processed the data received to ensure adequate address formatting

¹ See, e.g., “Final Judgment and Order and Final Approval of Exchange-Based Plaintiffs’ Class Action Settlement With Citi,” *In re LIBOR-Based Financial Instruments Antitrust Litigation*, No. 11-md-2262 (NRB) (Sept. 17, 2020) [ECF 3177].

² Large traders being defined as those who are required to report under Part 17 of the Commodity Futures Trading Commission’s (CFTC) regulations. Current reporting levels are found in CFTC Regulation 15.03(b), 17 CFR § 15.03(b).

and eliminate duplicate names and addresses. The names and addresses were then loaded to a segregated database created for this Action (the “Notice Mailing Database”).

5) Between March 19, 2020 and May 5, 2020, Co-Lead Counsel forwarded to A.B. Data Excel files received from BOA, Barclays, Citi, Deutsche Bank, HSBC, and JPMorgan containing both the names and addresses of their LIBOR-based Eurodollar Transaction clients, to the extent those names and addresses were available upon a reasonable search. For SG, between March 23 and 27, 2020, A.B. Data received electronic files from SG Americas Securities, LLC containing the names and addresses of clients that entered into Eurodollar futures or options on Eurodollar futures on the CME for which Newedge served as a clearing broker. A.B. Data electronically processed the data received to ensure adequate address formatting and eliminate duplicate names and addresses. The names and addresses were then loaded into the Notice Mailing Database.

6) A.B. Data maintains a database of the largest banks, brokerage houses, and clearing firms. The names and addresses of these banks, brokerage houses, and clearing firms were also loaded into the Notice Mailing Database.

7) A.B. Data compiled names and addresses of any additional claimants that filed claims from the Prior Settlements. A.B. Data also compiled all of the names and addresses referenced in ¶¶ 4-6 above and updated the Notice Mailing Database for the Final Settlement.

8) Pursuant to Paragraph 9(a) of the Order (1) Preliminarily Approving Settlements with Defendants Credit Suisse AG, Lloyds Bank PLC, Bank of Scotland PLC, NatWest Markets PLC, Portigon AG, Westdeutsche Immobilienbank AG, Royal Bank of Canada, RBC Capital Markets LLC, Coöperatieve Rabobank U.A., The Norinchukin Bank, MUFG Bank, Ltd., and UBS AG; (2) Conditionally Certifying the Settlement Class (3) Appointing Settlement Class Counsel;

(4) Approving Claims Administrator and Escrow Agent; (5) Approving Notice Program; (6) Preliminary Approving Plan of Distribution; and (7) Scheduling a Fairness Hearing dated April 26, 2024 (the “Preliminary Approval Order”) (ECF No. 4028), A.B. Data caused 4,933 Notice Packets and 12,529 Postcard Notices to be mailed via first-class mail, postage prepaid, to persons and entities on the updated Notice Mailing Database. A true and accurate copy of the Notice Packet and Postcard Notice is attached hereto as Exhibit A.

9) A.B. Data monitored the responses received from brokers and other Nominees providing names and addresses for mailing of Postcard Notices. Through July 30, 2024, A.B. Data mailed an additional 52 Postcard Notices. Each of the requests was responded to in a timely manner, and A.B. Data will continue to timely respond to any additional requests received.

10) In the aggregate, 12,581 Postcard Notices were disseminated to potential Settlement Class Members as of July 30, 2024.

MEDIA NOTICE

11) In accordance with the Settlement Agreements and paragraphs 9(b) and (c) of the Preliminary Approval Order for the Final Settlement, on May 20, 2024, A.B. Data caused the Media Notice to be released via *PR Newswire’s* US1 National Newswire. The US1 National Newswire reaches over 10,000 print and broadcast newsrooms and digital media websites in all 50 states and Puerto Rico. Releases on the US1 Newswire are also distributed to all the major news agencies such as AP, Bloomberg, Reuters, and Dow Jones. A copy of the proof of publication over *PR Newswire* is attached hereto as Exhibit B.

12) On May 20, 2024, A.B. Data caused the Summary Notice to be published in *The Wall Street Journal* and *Investor’s Business Daily*. Attached as Exhibits C and D, respectively, are copies of the Summary Notice as it appeared in *The Wall Street Journal* and *Investor’s Business Daily*.

WEBSITE

13) In accordance with the Preliminary Approval Order for the Final Settlement, on April 26, 2024, A.B. Data updated the case-specific settlement website, www.USDLiborEurodollarSettlements.com. A.B. Data continues to maintain the website and update it with information. The website lists, among other things, the exclusion, objection, and claim filing deadlines, general information regarding the case and its current status, and provides answers to frequently asked questions. Users of the website can file a claim online, view the Preliminary Approval Order, the Notice, the Claim Form, Plan of Distribution and copies of other Court documents.

14) Additionally, the website includes an email address (info@USDLiborEurodollarSettlements.com) for Claimants to contact A.B. Data with questions or for any additional information. A.B. Data has responded to all inquiries to this email address and will continue to monitor the email address throughout the settlement administration process.

15) The website provides functionality for Class Members to submit their claims online. Class Members can also download a copy of the Claim Form from the website. Additionally, electronic claims filing template and instructions are available on the website for entities such as brokers/nominees that are filing multiple Claim Forms on behalf of themselves and/or others. The deadline for Class Members to submit a claim is October 1, 2024.

16) As of July 30, 2024, the website has been visited 501 times.

TOLL-FREE TELEPHONE LINE

17) In accordance with the Preliminary Approval Order for the Final Settlement, on April 26, 2024, a case-specific toll-free number, 800-918-8964, is to be maintained (as well as a toll-free number for non-U.S./Canada callers) with an Interactive Voice Response (“IVR”) system

and live operators. The line is available 24 hours a day, seven days a week. Callers to the numbers are presented with a series of choices to respond to basic questions. If callers need further help, they have the option to be transferred to a live operator during business hours.

18) As of July 30, 2024, 13 callers have called the toll-free number, of which A.B. Data associates have spoken with 3 callers who opted to speak with a live operator. A.B. Data will continue to maintain the toll-free IVR number throughout the settlement administration process.

**REPORT ON OBJECTIONS AND REQUESTS FOR
EXCLUSION RECEIVED TO DATE**

19) The Notice informed Settlement Class Members that written objections must be received and filed (not simply postmarked) by August 15, 2024. To date, A.B. Data has not received any objections.

20) The Notice also informed Settlement Class Members that requests for exclusion from the Settlement Classes can be done so by submitting a written request for exclusion to A.B. Data postmarked by August 15, 2024. To date, A.B. Data has not received any requests for exclusion that were postmarked on or before the exclusion deadline.

21) Pursuant to the Notice, to be valid, a Request for Exclusion must be in writing and include:

(a) The name, address, and telephone number of the Settlement Class Member seeking to be excluded;

(b) A signed statement that “I/we hereby request that I/we be excluded from the proposed Exchange-Based Settlement Class in In re LIBOR-based Financial Instruments Antitrust Litig., 11 MDL No. 2262;”

(c) Proof of membership in the Settlement Class. Specifically, a description of and documentation evidencing that the Settlement Class Member’s transactions fall within

the Settlement Class definition (including, for each transaction, the identity of the broker (if any), the date of the transaction, the type of the transaction, the counterparty (if any), the exchange on which the transaction occurred, any transaction identification numbers, the rate, and the notional amount of the transactions); and

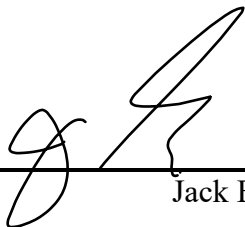
(d) The Settlement Class Member's signature.

(e) Be mailed to the Claims Administrator at the address provided below and postmarked no later than August 15, 2024.

22) A.B. Data will submit a supplemental declaration following the August 15, 2024 deadline to file exclusion and objection requests that will address any exclusions or objections received.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 30, 2024, in Milwaukee, Wisconsin.



Jack Ewashko

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

If You Transacted in Eurodollar Futures and/or Options on Eurodollar Futures on Exchanges such as the Chicago Mercantile Exchange (“CME”) between January 1, 2003 and May 31, 2011, inclusive (“Settlement Class Period”),

You May Be Eligible to Receive Payment of a Portion of Additional Settlement Funds of \$3.45 Million

If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.

This is a final settlement of a class action lawsuit involving the alleged manipulation of U.S. Dollar LIBOR and its impact on Eurodollar Futures and/or Options on Eurodollar Futures (“Eurodollar Futures”) that are linked to U.S. Dollar LIBOR. If approved, the proposed Settlement of \$3.45 million with the Remaining Defendants would completely resolve the pending litigation in the Exchange-Based Action.

- *A United States Federal Court authorized this Notice. This is not a solicitation from a lawyer. This is a Settlement with the Remaining Defendants – namely, Credit Suisse AG (“Credit Suisse”), Lloyds Bank plc and Bank of Scotland plc (together, “Lloyds”), NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) (“NatWest”), Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, “Portigon”), Royal Bank of Canada and RBC Capital Markets, LLC (together, “RBC”), Coöperatieve Rabobank U.A. (f/k/a/ Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) (“Rabobank”), The Norinchukin Bank (“Norinchukin”), MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), and UBS AG (“UBS”) (together Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS are referred to the “Remaining Defendants”) – in a class action lawsuit about the alleged price-fixing, suppression and manipulation of the U.S. Dollar London Interbank Offered Rate (“LIBOR” or “U.S. Dollar LIBOR”). The settlement price of Eurodollar futures directly incorporates U.S. Dollar LIBOR.*
- *The Settlement brings the total settlement amount in the Exchange-Based Action to \$190,450,000. The Court previously granted Final Approval for settlements in this Action, which created an aggregate Settlement Fund of \$187,000,000. On October 24, 2023, the Court authorized distribution of the aggregate Settlement Fund and the distribution process is ongoing. If the Court approves this Settlement for \$3,450,000, a separate distribution motion will be made once the claims administration process is completed.*
- *The lawsuit claims that the Remaining Defendants (see Question 3) unlawfully suppressed and/or manipulated the U.S. Dollar LIBOR rates which caused the price of Eurodollar futures to be suppressed or inflated to artificial levels, thereby causing Settlement Class Members to pay artificial prices for Eurodollar futures during the Settlement Class Period. The Remaining Defendants deny this claim and maintain they did nothing wrong.*
- *You are a “Settlement Class Member” included in the Settlement, and are entitled to seek a payment, if you transacted in any LIBOR-based Eurodollar futures and/or options on Eurodollar futures on exchanges such as the CME at any time between January 1, 2003 and May 31, 2011, inclusive (see Question 7). Settlement Class Members will release claims through this Settlement only against the Remaining Defendants and their affiliated persons and entities (see Question 14).*
- *The Settlement will pay individuals and institutions that transacted in Eurodollar futures and/or options on Eurodollar futures between January 1, 2003 and May 31, 2011, inclusive.*

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

- Your legal rights are affected even if you do nothing. Please read this Notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
|--|---|
| SUBMIT A CLAIM EITHER POSTMARKED BY MAIL or ELECTRONICALLY FILED ON THE SETTLEMENT WEBSITE NO LATER THAN OCTOBER 21, 2024 | This is the only way to get a payment. <i>See</i> Question 15. |
| ASK TO BE EXCLUDED BY SUBMITTING A WRITTEN REQUEST POSTMARKED NO LATER THAN AUGUST 15, 2024 | You will get no monetary benefits from the Settlement. This is the only option that allows you to independently assert the claims released by this Settlement against the Remaining Defendants about the alleged U.S. Dollar LIBOR manipulation affecting Eurodollar futures and/or options on Eurodollar futures that are at issue in this case. <i>See</i> Question 17. |
| OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION POSTMARKED BY MAIL NO LATER THAN AUGUST 15, 2024 | If you wish to object to the Settlement, or anything else mentioned in this Notice, you must file a written objection. <i>See</i> Question 22. |
| GO TO THE FAIRNESS HEARING ON SEPTEMBER 5, 2024 AT 11:30 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR NO LATER THAN AUGUST 22, 2024 | You may also request to be heard at the Fairness Hearing. <i>See</i> Question 26. |
| DO NOTHING | You will forfeit your right to get a monetary benefit from the Settlement and give up your rights to assert claims released by these Settlement against the Remaining Defendants about the alleged U.S. Dollar LIBOR manipulation and its alleged impact on Eurodollar Futures that are at issue in this case. |

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still must decide whether to approve the Settlement. Payments will not be made unless the Court approves the Settlement, and after any appeals regarding settlement approval are resolved.

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BASIC INFORMATION

1. Why did I receive this Notice?

A Court authorized this Notice because you have a right to know about the proposed Settlement with the Remaining Defendants in this class action lawsuit and about all your options before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Judge Naomi Reice Buchwald of the United States District Court for the Southern District of New York is overseeing this case. This litigation has been consolidated within *In re LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262. The Settlement relates to an action referred to as the “Exchange-Based Plaintiffs’ Action” because it involves Plaintiffs who transacted in Eurodollar Futures and options on exchanges such as the CME.

2. What is this lawsuit about?

The Exchange-Based Plaintiffs (also referred to as “Plaintiffs”) (*see* Question 5), who transacted in Eurodollar futures contracts and options on Eurodollar futures (*see* Question 9), sued various banks (and certain of their affiliates) (“Defendants,” *see* Question 3), claiming that the banks individually and collectively manipulated U.S. Dollar LIBOR to benefit their trading positions and engaged in the suppression of LIBOR. Plaintiffs alleged that the banks’ alleged conduct manipulated Eurodollar Futures prices to artificial levels between January 1, 2003 and May 31, 2011, inclusive. As a result, Exchange-Based Plaintiffs claim that they traded Eurodollar futures contracts at artificial price levels, paying more and/or receiving less than they would have absent Defendants’ manipulation of the U.S. Dollar LIBOR rate. The alleged manipulation of Defendants’ LIBOR submissions caused the Settlement Class to pay higher supracompetitive prices or receive lower infracompetitive prices for Eurodollar futures contracts and options on Eurodollar futures during the Settlement Class Period. Exchange-Based Plaintiffs brought claims under the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, and Commodity Exchange Act, 7 U.S.C. § 1 *et seq.* (“CEA”), against the Defendants seeking money damages. The Court has written at least seven published opinions addressing various legal matters raised by the parties in this lawsuit. Since the filing of the first civil LIBOR action on April 15, 2011, the Court has limited Plaintiffs’ claims in various ways, including by dismissing portions of Plaintiffs’ antitrust claims under the efficient enforcer standard, dismissing most foreign Defendants for lack of personal jurisdiction, and dismissing portions of Plaintiffs’ CEA claims as untimely, based on the Court’s findings that Plaintiffs were on inquiry notice of the claims and that the two-year statute of limitations had expired on Plaintiffs’ CEA claims in so-called “Periods 1 and 2” (August 2007 to April 14, 2009). The Court denied Plaintiffs’ motion for class certification. In its ruling, *In re LIBOR-based Fin. Instruments Antitrust Litig.* (“*LIBOR VII*”), 299 F. Supp. 3d 430 (S.D.N.Y. 2018), the Court denied class certification, rejected various econometric models and opinions of Plaintiffs’ experts as to liability and damages, and ruled that Plaintiffs had not fully satisfied the requirements of Federal Rule of Civil Procedure 23. Plaintiffs’ petition for leave to appeal the denial of class certification under Federal Rule 23(f) was denied. Given the procedural history of this lawsuit, the Settlement described herein may offer the best, and perhaps last, chance for Settlement Class Members to obtain additional monetary recoveries.

The Court previously granted Final Approval for seven settlements in this Action,¹ which created an aggregate Settlement Fund of \$187,000,000. On October 24, 2023, the Court authorized distribution of the aggregate Settlement Fund (ECF No. 3840) and the distribution process is ongoing. The additional and final Settlement of \$3.45 million has been reached between Exchange-Based Plaintiffs and the Remaining Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS, and that is why you are receiving this Notice. The Remaining Defendants deny all claims asserted against them and maintain they did nothing wrong.

¹ On September 17, 2020, this Court granted Final Approval of settlements with: (i) Bank of America Corporation and Bank of America, N.A. (collectively, “BOA”); (ii) Barclays Bank plc (“Barclays”); (iii) Citigroup Inc., Citibank, N.A., and Citigroup Global Markets Inc. (collectively, “Citi”); (iv) Deutsche Bank AG, Deutsche Bank Securities Inc., and DB Group Services (UK) Ltd. (collectively, “Deutsche Bank”); (v) HSBC Bank plc (“HSBC”); (vi) JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, “JPMorgan”); and (vii) Société Générale (collectively, “Prior Settlements”). *See* ECF Nos. 3175-80.

3. Who are the Remaining Defendants in the Exchange-Based Plaintiffs' Action?

The Remaining Defendants in the Exchange-Based Plaintiffs' Action are:

- Credit Suisse Group AG (“Credit Suisse”);
- Lloyds Bank plc and Bank of Scotland plc (together, “Lloyds”);
- NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) (“NatWest”);
- Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, “Portigon”);
- Royal Bank of Canada and RBC Capital Markets, LLC (together, “RBC”);
- Coöperatieve Rabobank U.A. (f/k/a/ Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) (“Rabobank”);
- The Norinchukin Bank (“Norinchukin”);
- MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.); and
- UBS AG (“UBS”).

4. Are there other LIBOR lawsuits?

Yes. Numerous cases were filed in various courts on behalf of different entities and individuals who were allegedly affected by the alleged manipulation of LIBOR by Defendants. Many of those cases were transferred to the U.S. District Court for the Southern District of New York and have been consolidated as: *In re LIBOR-Based Financial Instruments Litigation*, 11-MD-2262. This Settlement is made with Plaintiffs in the Exchange-Based Plaintiffs' Action only.

5. Why is this a class action?

In a class action, one or more persons or entities called “class representatives” sue on behalf of themselves and other persons or entities with similar claims. All of these persons or entities together are called the “class” or “class members.” In this Settlement, the Exchange-Based Plaintiffs, Metzler Asset Management GmbH (f/k/a Metzler Investment GmbH), FTC Futures Fund SICAV, FTC Futures Fund PCC Ltd., Atlantic Trading USA, LLC, 303030 Trading LLC, Gary Francis, and Nathaniel Haynes, are the Class Representatives. The Exchange-Based Plaintiffs allege that all other individuals and entities that transacted in Eurodollar futures and Eurodollar options contracts were also affected by Defendants' alleged manipulation of U.S. Dollar LIBOR. One court resolves the issues for all class members, referred to herein as the Settlement Class Members, except for those who exclude themselves from the Exchange-Based Plaintiffs' Class.

6. Why is there a Settlement?

The Court has not decided in favor of the Exchange-Based Plaintiffs or Remaining Defendants. Having assessed a number of relevant factors, the Exchange-Based Plaintiffs have separately agreed with Remaining Defendants to settle the litigation. A settlement is neither an admission of liability by Remaining Defendants nor an admission of deficiencies in their claim by Exchange-Based Plaintiffs. By agreeing to settle, the Parties avoid the costs and uncertainty of a trial, and the Settlement Class Members will get a chance to receive compensation. The Exchange-Based Plaintiffs and their attorneys believe the Settlement is in the best interests of all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

If you received mailed notice of the Settlement or previously submitted a claim in this Action, then you may be a Settlement Class Member. But even if you did not receive a notice, you may be a Settlement Class Member, as described below.

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

7. How do I know if I am part of the Settlement?

If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.

You are included in the Settlement as a Settlement Class Member, if you meet the definition below:

All Persons, corporations and other legal entities that transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including without limitation, the Chicago Mercantile Exchange, between January 1, 2003 and May 31, 2011, inclusive.

Excluded from the Settlement Class are: (i) Defendants, their employees, affiliates, parents, subsidiaries, and alleged co-conspirators; (ii) the Releasees (as defined in the Settlement Agreement); and (iii) any Class Member who files a timely and valid request for exclusion. Notwithstanding these exclusions, and solely for the purposes of the Settlement and the Settlement Class, Investment Vehicles shall not be excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates or subsidiaries of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate or subsidiary thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.

8. What is the London Interbank Offered Rate ("LIBOR")?

The London Interbank Offered Rate ("LIBOR") is the reference point for determining interest rates for financial instruments worldwide. LIBOR rates are determined for several currencies, including the U.S. Dollar, for multiple borrowing periods ranging from overnight to one year. They are published each business day. U.S. Dollar LIBOR is the trimmed average of the rates at which an individual bank on the U.S. Dollar LIBOR panel could borrow funds, were it to do so by asking for and then accepting offers in the London inter-bank market in reasonable market size, just prior to 11:00 am London time. The Settlement only involves U.S. Dollar LIBOR.

9. Which Eurodollar futures and options are covered by the Settlement?

The Settlement covers Eurodollar futures and options on Eurodollar futures transacted on exchanges, such as the CME, during the period between January 1, 2003 and May 31, 2011, inclusive.

10. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are included in the Settlement, you may call 1-800-918-8964 with questions or visit www.USDLiborEurodollarSettlements.com. You may also write with questions to USD Libor Eurodollar Futures Settlements c/o A.B. Data, Ltd., P.O. Box 170999, Milwaukee, WI 53217-8091 or email info@USDLiborEurodollarSettlements.com.

THE SETTLEMENT BENEFITS

11. What does the Settlement provide?

The Remaining Defendants have agreed to pay \$3.45 million. The Settlement, if it receives Final Approval from the Court, will create an additional \$3.45 million Settlement Fund that will be used to pay eligible Settlement Class Members who submit valid claims. **If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** The cost to

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

administer the Settlement, attorneys' fees, and reimbursement of litigation costs and expenses will come out of the Settlement Fund, if the Court approves applications for such payments from the Settlement Fund (*see* Question 21). More details are in Settlement Agreement, which is available at www.USDLiborEurodollarSettlements.com.

12. How much will my payment be?

Payments from the Settlement Fund will be distributed to Eligible Class Members *pro rata*, after deduction of any fees, expenses and other allowed deductions (*see* Question 21). Eligible Class Members are Settlement Class Members who timely file a valid proof of claim. **If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** The distribution will be made in accordance with and pursuant to a plan of distribution (the "Plan of Distribution" or "Plan"). A proposed Plan has been submitted to the Court in advance of the Final Approval Hearing. The proposed Plan is enclosed with this Notice and made available at www.USDLiborEurodollarSettlements.com.

The Plan provides for three types of payments to be made to distribute the funds: 1) approximately 97% of the anticipated net settlement funds will be distributed to Eligible Class Members based upon their net losses caused by "price artificiality"; 2) approximately 1.1316% of the face amount of the approved settlements will be distributed based on the net losses of each eligible Settlement Class Member from transactions which were opened and closed during specified periods; and 3) a guaranteed minimum payment of at least \$20 will be made to each eligible Settlement Class Member. The amount of "price artificiality" with respect of certain transactions will be subject to certain discounts. Also, any eligible Settlement Class Members who purchased and sold specific Eurodollar Futures on the same day will have no net loss from "price artificiality" on that contract. This is because the same daily amount of "price artificiality" will apply to both the purchase and sale leg of the transaction. Accordingly, the amount of unfavorable impact will equal the amount of favorable impact, and there will be no net loss from artificiality related to any such transaction.

The foregoing summary is qualified in all respects by the full terms of the Plan. See enclosed Plan or see www.USDLiborEurodollarSettlements.com.

Settlement Class Members will have the option to comment or object to any portion of the Plan at the Fairness Hearing (*see* "The Fairness Hearing" below). The Settlement Agreement will remain in place if the Court rejects or alters the proposed Plan.

13. When will I receive my payment?

Settlement Class Members who are entitled to payments will receive their payments after the Court grants final approval to the Settlement and after any appeals relating to the Settlement is resolved. If there are appeals relating to the Settlement or the settlement approval proceedings, resolving them can take time. Please be patient.

14. What am I giving up by staying in the Settlement Class?

Unless you exclude yourself from the Settlement Class, you will give up your right to sue Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS and their affiliated persons and entities for the claims being resolved by the Settlement. The specific claims you are giving up against the Remaining Defendants and all related parties are fully described in Settlement Agreement available for review at www.USDLiborEurodollarSettlements.com: see paragraphs 1(KK), 1(LL), 1(MM), 1(XX), 11(A), and 11(B) of the Settlement Agreement. You will be "releasing" the Remaining Defendants and all related persons and entities as described in the Settlement Agreement.

The released claims *do not*, however, include the following:

- Claims to enforce any of the terms of the Settlement Agreement in this case;

- Claims concerning U.S. Dollar LIBOR-based instruments such as asset swaps, collateralized debt obligations, credit default swaps, forward rate agreements, inflation swaps, interest rate swaps, total return swaps, options, or floating rate notes arising from or relating in any way to the conduct alleged in the OTC Plaintiffs' Action (No. 11 Civ. 5450 (NRB), pending in the Southern District of New York), that are not released by this final Exchange-Based Plaintiffs' Settlement;
- Claims concerning U.S. Dollar LIBOR-based debt securities such as government and municipal bonds, corporate bonds, asset-based securities, mortgage-backed securities and collateralized debt obligations arising from or relating in any way to the conduct alleged in the Bondholder Plaintiffs' Action (No. 12 Civ. 1025 (NRB), pending in the Southern District of New York), that are not released by this final Exchange-Based Plaintiffs' Settlement; or
- Any other claims that do not arise out of the factual predicate of the Exchange-Based Plaintiffs' Action.

The Settlement Agreement, available at www.USDLiborEurodollarSettlements.com, describe the released claims and released persons in more detail, so please read carefully. If you have any questions, you can talk to the law firms listed in Question 20 at no cost to you. You may also speak with your own lawyer if you have questions about this Notice or the Exchange-Based Plaintiffs' Action.

HOW TO RECEIVE A PAYMENT

15. How can I receive a payment?

To ask for a payment, you will need to complete and submit a Proof of Claim and Release Form postmarked OR submitted electronically no later than **October 21, 2024**. **If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** Instructions for electronic claims submission are available at www.USDLiborEurodollarSettlements.com. If you submit a Proof of Claim and Release Form with your contact information, you will receive future notifications containing additional important information. You may also download and mail your completed Proof of Claim and Release form to:

USD Libor Eurodollar Futures Settlements
c/o A.B. Data, Ltd.
P.O. Box 170999
Milwaukee, WI 53217-8091

Any claims that are not released do not qualify for payment in the Settlement (*see* Question 14).

16. What if my claim is rejected?

The Settlement provides a process for Settlement Class Members to contest the rejection of a claim. You will get further details in the letter you will receive after your claim has been processed. If your claim is rejected, you may request a review. You will need to do so in writing and submit reasons for why you are contesting the rejection, along with any supporting documentation. If your dispute cannot be resolved, it may be presented to the Court for review. The Court's decision will be final and binding. More details are in the relevant Settlement Agreement, which is available at www.USDLiborEurodollarSettlements.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to retain the right to sue Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS about the issues in the Exchange-Based Plaintiffs' Action, and if you are willing to forgo a payment from the

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

Settlement, then you must take steps to exclude yourself from the Settlement Class. This is called excluding yourself and sometimes referred to as “opting out” of the Settlement Class.

17. How do I request exclusion from the Settlement?

To exclude yourself from the Settlement, you must mail a letter or other written document (“Request for Exclusion”) to the Settlement Claims Administrator, A.B. Data, Ltd. (the “Claims Administrator”). To exclude yourself from the Settlement, you must file a timely written Request for Exclusion.

A Request for Exclusion must:

- Be in writing;
- Be signed by you or your authorized representative;
- State your name, address, and phone number;
- Include proof of membership in the Settlement Class, specifically, a description of and documentation evidencing your transactions that fall within the Settlement Class definition (including, for each transaction, the identity of the broker (if any), the date of the transaction, the type of the transaction, the counterparty (if any), the exchange on which the transaction occurred, any transaction identification numbers, the rate, and the notional amount of the transaction);
- Include a signed statement that “I/we hereby request that I/we be excluded from the proposed Exchange-Based Settlement Class in the *In re LIBOR-based Financial Instruments Antitrust Litigation*, MDL No. 2262”; and
- Be mailed to the Claims Administrator at the address provided below and postmarked no later than **August 15, 2024**.

You must also provide any other information reasonably requested by the Claims Administrator. You must mail your Request for Exclusion, postmarked no later than **August 15, 2024**, to USD Libor Eurodollar Futures Settlements, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 170999, Milwaukee, WI 53217-8091.

18. If I do not exclude myself, can I sue any of the Remaining Defendants for the same thing later?

No. Unless you exclude yourself by the deadline stated above, you give up the right to sue any of the Remaining Defendants for the claims that you release through this Settlement.

19. If I exclude myself, can I still receive a payment from the Settlement?

No. You will not get a payment in connection with this final Settlement in the Exchange-Based Plaintiffs’ Action if you exclude yourself from this Settlement.

THE LAWYERS REPRESENTING YOU

20. Do I have a lawyer in the case?

The Court has appointed two law firms – Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP – to represent all Exchange-Based Settlement Class Members as “Settlement Class Counsel.” They can be contacted at:

David E. Kovel
KIRBY MCINERNEY LLP
250 Park Avenue, Suite 820
New York, NY 10177

Christopher Lovell
LOVELL STEWART HALEBIAN
JACOBSON LLP
500 5th Avenue - Suite 2440
New York, New York 10110

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

21. How will the lawyers be paid?

Settlement Class Counsel will ask the Court for attorneys' fees of up to one third of the \$3,450,000 Settlement Fund, as well as reimbursement for litigation costs and expenses. The fees and expenses awarded by the Court will be paid out of the Settlement Funds. The Court will decide the amount of fees to award. Settlement Class Members who do not exclude themselves from the Settlement may object to Settlement Class Counsel's request for attorneys' fees and reimbursement of litigation costs and expenses (*see* Question 22).

OBJECTING TO THE SETTLEMENT

22. How do I tell the Court if I oppose the Settlement?

Any member of the Settlement Class may appear at the Fairness Hearing in person or by counsel (at his, her or its own expense) and may be heard, to the extent allowed by the Court, either in support of or in opposition to the fairness, reasonableness, and adequacy of any or all of the proposed Settlement or any related matter (including the request for attorneys' fees and expenses, the Plan of Distribution or any other matter). To object to any or all of the proposed Settlement, you must submit a letter or other written document that includes the following:

- Your name, address, and telephone number;
- A statement saying that you object to the Settlement with the Remaining Defendants Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS in the Exchange-Based Plaintiffs' Action in *In re LIBOR-based Financial Instruments Antitrust Litigation*, MDL No. 2262;
- Whether you plan to appear at the Fairness Hearing (*see* Question 26);
- Proof of membership in the Settlement Class, specifically, a description of and documentation evidencing your transactions that fall within the Settlement Class definition (including, for each transaction, the identity of the broker (if any), the date of the transaction, the type of the transaction, the counterparty (if any), the exchange on which the transaction occurred, any transaction identification numbers, the rate, and the notional amount of the transactions);
- The specific reasons you object to the Settlement, along with any supporting materials or documents that you want the Court to consider; and
- Your signature.

Your objection(s) must be mailed to the addresses listed below with a postmark no later than **August 15, 2024**. **Persons who have timely submitted a valid request for exclusion are not members of the Settlement Class and are not entitled to object.**

To object to the Settlement:

| COURT | SETTLEMENT CLASS COUNSEL | REMAINING DEFENDANTS' COUNSEL |
|---|--|---|
| Hon. Naomi Reice Buchwald Daniel Patrick Moynihan United States Courthouse 500 Pearl St. New York, NY 10007 | David E. Kovel Kirby McInerney LLP 250 Park Avenue, Suite 820 New York, NY 10177 AND Christopher Lovell | On Behalf of Credit Suisse: Joel Kurtzberg Cahill Gordon & Reindel LLP 32 Old Slip New York, NY 10005 On behalf of Lloyds: |

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

| | | |
|--|--|--|
| | <p>Lovell Stewart Halebian Jacobson LLP 500 5th Avenue - Suite 2440 New York, NY 10110</p> | <p>Marc J. Gottridge Herbert Smith Freehills New York LLP 450 Lexington Avenue New York, NY 10017</p> <p>On behalf of MUFG: Christopher Viapiano Sullivan & Cromwell LLP 1700 New York Avenue, N.W. Suite 700 Washington, DC 20006</p> <p>On behalf of Norinchukin: Andrew W. Stern Sidley Austin LLP 787 Seventh Avenue New York, NY 10019</p> <p>On behalf of Rabobank: David R. Gelfand Milbank LLP 55 Hudson Yards New York, NY 10001</p> <p>On behalf of RBC: Brian J. Poronsky Katten Muchin Rosenman LLP 525 West Monroe Street Chicago, IL</p> <p>On behalf of NatWest: Davis S. Lesser King & Spalding LLP 1185 Avenue of the Americas, 34th Floor New York, NY 10036</p> <p>On behalf of Portigon: Christopher M. Paparella Justin Ben-Asher Steptoe LLP 1114 Avenue of the Americas New York, NY 10036</p> <p>On behalf of UBS: Eric J. Stock Jefferson E. Bell Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166</p> |
|--|--|--|

If your objection is not postmarked by the deadline and do not include the information listed above, the objections will not be valid and may not be considered by the Court.

23. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you oppose something about the Settlement. You can object only if you remain a member of the Settlement Class and do not exclude yourself from it. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class with respect to the Settlement. If you exclude yourself from the Settlement Class, you will forfeit any claim to payment under the Settlement and you will have no basis to object because the Settlement no longer affect you. If you choose to exclude yourself or object to the Settlement, Court filings of exclusions and objections will publicly reveal your identity.

THE FAIRNESS HEARING

The Court will hold a hearing (“Fairness Hearing”) to decide whether to approve the proposed Settlement, the proposed Plan of Distribution, and any requests for fees and expenses. You may attend and you may ask to speak, but you do not have to.

24. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Fairness Hearing at 11:30 a.m. on **September 5, 2024**, at the Daniel Patrick Moynihan United States Courthouse, Southern District of New York, 500 Pearl St., New York, NY 10007, Courtroom 21A. The Fairness Hearing may be moved to a different location or time without additional notice, so you are advised to check www.USDLiborEurodollarSettlements.com or call 1-800-918-8964 if you are intending to attend the hearing. At this hearing, the Court will consider whether the Settlement, the Plan of Distribution, and any proposed fees and expenses are fair, reasonable, and adequate. If there are objections, the Court will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Settlement Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

25. Do I have to attend the hearing?

No. Settlement Class Counsel will represent the interests of the Settlement Class at the Fairness Hearing. You or your own lawyer are welcome to attend at your expense. If you send an objection, you do not have to come to Court to talk about it. As long as your written objection is postmarked by August 15, 2024, the Court will consider it. You may also have your own lawyer attend, at your expense, but it is not necessary.

26. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To speak at the Fairness Hearing, you must send a letter or other written document saying that the letter or document is your “Notice of Intention to Appear” at the Fairness Hearing in the Exchange-Based Plaintiffs’ Action in *In re LIBOR-based Financial Instruments Antitrust Litigation*, MDL No. 2262. Be sure to include your name, address, telephone number, and your signature. You must send your “Notice of Intention to Appear” to the relevant addresses listed in Question 22, so that it is postmarked no later than **August 22, 2024**.

GETTING MORE INFORMATION**27. How do I get more information?**

This Notice summarizes the proposed Settlement and related procedures. More details are available in the Settlement Agreement. You can obtain a copy of the Settlement Agreement at www.USDLiborEurodollarSettlements.com. You

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

also may call or write to the Claims Administrator with questions regarding the Exchange-Based Plaintiffs' Action, the Settlements, your rights under the Settlement or the filing of claims to USD Libor Eurodollar Futures Settlements c/o A.B. Data, Ltd., P.O. Box 170999, Milwaukee, WI 53217-8091 or call the toll-free number, 1-800-918-8964. A Proof of Claim Form is provided with this Notice. You can obtain additional Proof of Claim and Release forms at the website, or by calling the toll-free number, 1-800-918-8964.

28. Information for Nominees or Brokers

If, during the Settlement Class Period, you transacted in any U.S. Dollar LIBOR-based Eurodollar futures and/or options on Eurodollar futures for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN SEVEN (7) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, you must either:

- (a) provide to the Claims Administrator (at the below address) the name and last known address of each person or organization for whom or which you held such U.S. Dollar LIBOR-based Eurodollar futures and/or options on Eurodollar futures during the Settlement Class Period, and the Claims Administrator will send a copy of the Notice to each identified beneficial owner, or
- (b) request additional copies of this Notice, which will be provided to you free of charge, and within seven (7) CALENDAR DAYS, mail the Notice directly to the beneficial owners.

You are entitled to reimbursement from the Settlement Fund of your reasonable expenses, actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator at the following address:

USD LIBOR EURODOLLAR FUTURES SETTLEMENT
c/o A.B. DATA, LTD.
P.O. BOX 170999
MILWAUKEE, WI 53217-8091
info@USDLiborEurodollarSettlements.com

DO NOT TELEPHONE OR WRITE THE DISTRICT COURT OR THE OFFICE OF THE CLERK OF THE COURT REGARDING THIS NOTICE.

Dated: April 26, 2024

BY ORDER OF THE DISTRICT COURT
United States District Court
Southern District of New York

QUESTIONS? CALL 1-800-918-8964 OR VISIT www.USDLiborEurodollarSettlements.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

Master File No. 11-md-2262 (NRB)

THIS DOCUMENT RELATES TO:

METZLER INVESTMENT GmbH, et al.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.

Defendants.

PROOF OF CLAIM AND RELEASE
FOR THE EXCHANGE-BASED PLAINTIFFS' SETTLEMENT WITH CREDIT SUISSE, LLOYDS,
NATWEST, PORTIGON, RBC, RABOBANK, NORINCHUKIN, MUFG, AND UBS

IF YOU PREVIOUSLY SUBMITTED A VALID PROOF OF CLAIM IN THE PRIOR SETTLEMENTS, YOU DO NOT NEED TO SUBMIT ANOTHER PROOF OF CLAIM TO PARTICIPATE IN THIS SETTLEMENT UNLESS YOU WISH TO AMEND YOUR CLAIM.

GENERAL INSTRUCTIONS

1. To recover as a member of the Settlement Class in the above-referenced Exchange-Based Plaintiffs' Action in the U.S. Dollar LIBOR multi-district litigation styled, *In re LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262 (NRB), pending in the United States District Court for the Southern District of New York, and involving plaintiffs who transacted in Eurodollar futures and/or options on Eurodollar futures contracts on exchanges, such as the Chicago Mercantile Exchange ("CME"), during the period between January 1, 2003 and May 31, 2011, inclusive ("the Exchange-Based Plaintiffs' Action"), you must complete this Proof of Claim and Release ("Proof of Claim") form. **If you previously submitted a valid Proof of Claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** A summary of Exchange-Based Plaintiffs' claims, the Settlement, and releases are set forth in the Notice. Critically, the district court denied Exchange-Based Plaintiffs' motion for class certification and Plaintiffs' petition for leave to appeal the denial of class certification under Federal Rule 23(f) was denied. Your participation in this Settlement may offer the best, and perhaps last, chance for you to receive any monetary recovery from the Exchange-Based Plaintiffs' Action.
2. Submission of this Proof of Claim form, however, does not assure that you will share in the Net Settlement Fund.
3. You have two options for completing a Proof of Claim form:
 - a. You can mail your completed and signed Proof of Claim form postmarked no later than October 21, 2024, to:

USD LIBOR EURODOLLAR FUTURES SETTLEMENT

c/o A.B. DATA, LTD.

P.O. BOX 170999

MILWAUKEE, WI 53217-8091

www.USDLiborEurodollarSettlements.com

- b. You can complete and submit the Proof of Claim form through the Settlement website by visiting www.USDLiborEurodollarSettlements.com. **If you previously submitted a valid Proof of Claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** Upon completion of the online Proof of Claim form, you will receive an acknowledgment that your Proof of Claim has been submitted. If you choose this option and file a Proof of Claim electronically, you must file on or before October 21, 2024.
4. If you are a member of the Settlement Class, then, by properly completing this Proof of Claim and furnishing the required supporting documentation, you may be entitled to share in the proceeds from the Net Settlement Fund.
- Omission of necessary information and/or supporting documents will make your claim defective so that it may be rejected, in which case you will be notified of such rejection and given an opportunity to remedy same. You must include all trade information for transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts during the period January 1, 2003 through May 31, 2011, inclusive (the “Settlement Class Period”) for all accounts you owned or controlled.
5. If you are NOT a member of the Settlement Class DO NOT submit a Proof of Claim and Release form.
- The Settlement Class is defined as all persons, corporations and other legal entities that transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, such as the CME, between January 1, 2003 and May 31, 2011, inclusive. Excluded from the Settlement Class are: (i) Defendants, their employees, affiliates, parents, subsidiaries, and alleged co-conspirators; (ii) the Releasees (as defined in the Settlement Agreement); and (iii) any Class Member who files a timely and valid request for exclusion. Notwithstanding these exclusions, and solely for purposes of the Settlement and the Settlement Class, Investment Vehicles shall not be excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates or subsidiaries of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate or subsidiary thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.
6. If you are a member of the Settlement Class and you fail to submit a valid and timely Proof of Claim pursuant to the instructions set forth herein or fail to provide adequate documentation of those transactions, you may be precluded from any recovery from the Net Settlement Fund. However, unless you validly exclude yourself from the Settlement Class, you will be bound by the terms of any judgment entered in the Action whether or not you submit a Proof of Claim form.

DEFINITIONS

Capitalized terms not defined in this Proof of Claim and Release form have the same meaning as set forth in the Settlement Agreement with Defendants Credit Suisse AG (“Credit Suisse”), Lloyds Bank plc and Bank of Scotland plc (together, “Lloyds”), NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) (“NatWest”), Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, “Portigon”), Royal Bank of Canada and RBC Capital Markets, LLC (together, “RBC”), Coöperatieve Rabobank U.A. (f/k/a Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) (“Rabobank”), The Norinchukin Bank (“Norinchukin”), MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), and UBS AG (“UBS”) (together Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS are referred to herein as the “Remaining Defendants”). The Settlement Agreement, in its entirety, is available at www.USDLiborEurodollarSettlements.com.

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If you require additional space on this or any other section of the Proof of Claim, attach an additional page to the end of the claim form. Do not submit multiple Proofs of Claim.

If you are unable to identify all transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts on exchanges such as the CME by any affiliates of yours, who, to your knowledge, made any transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts during the Settlement Class Period, then please list below the names of such affiliates.

If you leave the above line blank, then by executing this Proof of Claim, you are affirming that, to the best of your knowledge, you have no affiliates who made transactions in Eurodollar futures contracts and/or options on Eurodollar futures on exchanges such as the CME during the Settlement Class Period that are not reflected in this Proof of Claim.

ITEM 2—LIST OF FUTURES COMMISSION MERCHANTS

2. Please list all futures commission merchants (“FCMs”) through which you maintained accounts wherein you traded Eurodollar futures contracts or options during the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011).

ITEM 3—LIST OF ACCOUNT NAMES AND ACCOUNT NUMBERS

3. Please provide a list of all account names and account numbers for each FCM you listed in response to “Item 2” above wherein you traded Eurodollar futures contracts or options contracts during the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011).

ITEM 4—PROOF OF QUALIFYING TRANSACTIONS

4. Please provide proof of all transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts on exchanges such as the CME that you made during the Settlement Class Period by, for example, enclosing photocopies of daily brokerage confirmations, monthly account statements, and other documents evidencing purchases and/or sales reflecting any and all transactions in such Eurodollar futures contracts and/or options. Each Claimant must provide sufficient documentation to allow the Claims Administrator to determine whether a transaction in a Eurodollar futures contract or an option on Eurodollar futures contract traded on exchanges, including without limitation, the CME, qualifies as a transaction in Eurodollar futures contract and/or options on Eurodollar futures contract. Such documentation must reflect the date, price, and quantity of all such transactions in Eurodollar futures contracts and/or options (*see* Item 6 below). **It is highly likely that the most efficient method for Claimants to support their claims is to produce records reflecting all Eurodollar futures contracts or options on Eurodollar futures contracts traded on exchanges, including without limitation, the CME during the Settlement Class Period.**

You should provide proof for each and every transaction in Eurodollar futures contracts and/or options on Eurodollar futures contracts regardless of whether such transaction resulted in a gain or a loss.

If any such documents are not in your possession, please obtain them or their equivalent from your broker or tax advisor or other sources if it is possible for you to do so.

If you have this information in an electronic form, you are strongly encouraged to submit the information electronically along with a hard copy printout of your trading records in order to expedite the treatment of your Proof of Claim. The following formats are acceptable: ASCII, MS Excel, and MS Access.

ITEM 5—INSTRUCTIONS FOR LIST OF TRANSACTIONS IN EURODOLLAR FUTURES CONTRACTS AND/OR OPTIONS ON EURODOLLAR FUTURES CONTRACTS

5. The Settlement Administrator will determine each Claimant's Net Artificiality Paid and Net Loss (as set forth in the Plan of Distribution) by analyzing each Claimant's transactions in Eurodollar futures contracts and/or options. Claimants are required to list each transaction in Eurodollar futures contracts and/or options in the form provided in Item 6 below. If additional space is necessary, or if Claimants wish to use a Microsoft Excel format, please go to www.USDLiborEurodollarSettlements.com to obtain an electronic filing template.

In listing the information requested in Item 6 below, you should always use trade dates, not settlement dates. Do not average prices of separate transactions, including transactions within a given date. It is important that you supply the information requested to the fullest extent that you are able to do so.

ITEM 6—LIST OF HOLDINGS AND TRANSACTIONS IN EURODOLLAR FUTURES CONTRACTS AND/OR OPTIONS ON EURODOLLAR FUTURES CONTRACTS

6(a). If you purchased or sold a Eurodollar futures contract on exchanges, including without limitation, the CME, during the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011), then you must provide the information set forth in the Table I below for all such transactions.

TABLE I—PURCHASE(S) AND SALE(S) OF EURODOLLAR FUTURES CONTRACTS DURING THE SETTLEMENT CLASS PERIOD

| Date of Transaction | Purchase or Sale (P/S) | Contract Code | Contract Month/Year | Number of Contracts In Transaction | Price | Brokerage Firm and Account Number in Which Transaction Made | Hedging Transaction? (Yes or No) ² |
|---------------------|------------------------|---------------|---------------------|------------------------------------|-------|---|---|
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| / / | | | | | | | |
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6(b). If you opened any positions (long or short) in Eurodollar futures contracts prior to the start of the Settlement Class Period on January 1, 2003, which were closed as a result of the transactions identified in Table I, you must provide the information set forth below in Table II with respect to any such transactions made prior to the Settlement Class Period which were closed during the Settlement Class Period.

TABLE II—OFFSETTING PURCHASE(S) AND SALE(S) OF EURODOLLAR FUTURES CONTRACTS PRIOR TO THE SETTLEMENT CLASS PERIOD FOR POSITIONS CLOSED DURING THE SETTLEMENT CLASS PERIOD

| Date of Transaction | Purchase or Sale (P/S) | Contract Code | Contract Month/Year | Number of Contracts In Transaction | Price | Brokerage Firm and Account Number in Which Transaction Made | Hedging Transaction? (Yes or No) |
|---------------------|------------------------|---------------|---------------------|------------------------------------|-------|---|----------------------------------|
| / / | | | | | | | |
| / / | | | | | | | |
| / / | | | | | | | |

6(c). If you held any open positions (long or short) in Eurodollar futures contracts and/or options as of the end of the Settlement Class Period on May 31, 2011, as a result of the transactions identified in Table II, you must provide the information set forth below in Table III with respect to any transactions in Eurodollar futures contracts and/or options made after the Settlement Class Period that offset in whole or in part such open positions.

² For the purpose of this Proof of Claim form only, Hedging Transactions are defined as any offsetting exposures held or acquired by you or any of your affiliates on a designated contract market or swap execution facility that reduce actual risks that your or any of your affiliates would otherwise face related to the change in value of assets, liabilities, and services and thus operated as a hedge (in whole or in part) against your transaction(s) in Class Contracts listed in Item 6.

TABLE III—OFFSETTING PURCHASE(S) AND SALE(S) OF EURODOLLAR FUTURES CONTRACTS AFTER THE SETTLEMENT CLASS PERIOD FOR POSITIONS HELD AS OF THE END OF THE SETTLEMENT CLASS PERIOD

| Date of Transaction | Purchase or Sale (P/S) | Contract Code | Contract Month/Year | Number of Contracts In Transaction | Price | Brokerage Firm and Account Number in Which Transaction Made | Hedging Transaction? (Yes or No) |
|---------------------|------------------------|---------------|---------------------|------------------------------------|-------|---|----------------------------------|
| / / | | | | | | | |
| / / | | | | | | | |
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6(d). If you purchased or sold options on Eurodollar futures contracts (as defined above) during the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011), then you must provide the information set forth in the Table IV below for all such transactions.

TABLE IV—PURCHASE(S) AND SALE(S) OF EURODOLLAR OPTIONS DURING THE SETTLEMENT CLASS PERIOD

| Date of Transaction | Purchase or Sale (P/S) | Call (C) or Put (P) | Contract Code | Contract Month/Year | Strike Price | Number of Options | Option Price | Hedge? (Yes or No) | Disposition and Date (Exercised, Assigned, Expired, Closed) |
|---------------------|------------------------|---------------------|---------------|---------------------|--------------|-------------------|--------------|--------------------|---|
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6(e). If you purchased or sold options on Eurodollar futures contracts (as defined above) prior to the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011), that were disposed of during the Settlement Class Period, then you must provide the information set forth in the Table V below for all such transactions.

TABLE V—PURCHASE(S) AND SALE(S) OF EURODOLLAR OPTIONS PRIOR TO THE SETTLEMENT CLASS PERIOD THAT WERE DISPOSED OF DURING THE SETTLEMENT CLASS PERIOD

| Date of Transaction | Purchase or Sale (P/S) | Call (C) or Put (P) | Contract Code | Contract Month/Year | Strike Price | Number of Options | Option Price | Hedge? (Yes or No) | Disposition and Date (Exercised, Assigned, Expired, Closed) |
|---------------------|------------------------|---------------------|---------------|---------------------|--------------|-------------------|--------------|--------------------|---|
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6(f). If you disposed of Eurodollar futures contracts (as defined above) after the Settlement Class Period (*i.e.*, January 1, 2003 – May 31, 2011) that were purchased during the Settlement Class Period, then you must provide the information set forth in the Table VI below for all such transactions.

**TABLE VI—DISPOSITION OF EURODOLLAR OPTIONS AFTER THE SETTLEMENT CLASS PERIOD
THAT WERE PURCHASED AND SOLD DURING THE SETTLEMENT CLASS PERIOD**

| Date of Transaction | Purchase or Sale (P/S) | Call (C) or Put (P) | Contract Code | Contract Month/Year | Strike Price | Number of Options | Option Price | Hedge? (Yes or No) | Disposition and Date (Exercised, Assigned, Expired, Closed) |
|---------------------|------------------------|---------------------|---------------|---------------------|--------------|-------------------|--------------|--------------------|---|
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6(g). For any line in which you stated Hedging Transactions in 6(a) - 6(f) above, were all of the transactions in that line Hedging Transactions? YES ____ or NO _____. If your answer is NO, please list all of your Hedging Transactions in that line that were not Hedging Transactions.

6(h). Were any of the transactions you listed in 6(a) - 6(f) above conducted by you as a “Swap Dealer”? A Swap Dealer is any person who (i) holds itself out as a dealer in swaps, (ii) makes a market in swaps, (iii) regularly enters into swaps with counterparties as an ordinary course of business for its own account, or (iv) engages in activity causing itself to be commonly known in the trade as a dealer or market maker in swaps. If your answer is YES, please list all of your transactions as a Swap Dealer in the space provided below.

SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

The Claimant submits this Proof of Claim form under the terms of the Distribution Plan of Net Settlement Fund described in the Notice. The Claimant also submits to the jurisdiction of the United States District Court for the Southern District of New York (the “Court”), with respect to this Proof of Claim and for purposes of enforcing the releases set forth herein, the terms of the Settlement Agreement, and any order or judgment of the Court. The Claimant further acknowledges that he, she, or it will be bound by the terms of any judgment entered in connection with the Settlement in the Exchange-Based Plaintiffs’ Action, including the releases set forth therein. The Claimant agrees to furnish additional information to the Settlement Administrator to support this claim, such as additional documentation for transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts, if required to do so. The Claimant has not submitted any claim covering the same holdings of Eurodollar futures contracts and/or options on Eurodollar futures contracts during the Settlement Class Period and knows of no other person having done so on his, her, or its behalf.

It is important that the Claimant accurately discloses all transactions in Eurodollar futures contracts and/or options on Eurodollar futures contracts open at the start of or made during the Settlement Class Period. The Claimant expressly consents to the release to the Settlement Administrator of any and all documents reflecting the Claimant's transactions in such Eurodollar futures contracts and/or options that may be obtained from third parties, including, but not limited to, your brokerage firm(s) and/or the Commodity Futures Trading Commission ("CFTC"). By executing this Proof of Claim the Claimant hereby permits the Settlement Administrator to request from the exchange, including without limitation, the CME, the Claimant's account and relevant trade information prior to receiving a payment from the Net Settlement Fund.

The Claimant certifies that reasonable efforts have been made to locate all information requested in Items 1-6 above and that all information supplied in connection with this Proof of Claim is true, correct, and complete.

The Claimant understands that the information provided herein is subject to verification and the Claimant agrees to cooperate in any such verification including by furnishing additional information to support this claim and by assisting the Settlement Administrator if requested to do so.

The Claimant understands that the Settlement Administrator will determine the adequacy of the Claimant's Proof of Claim and supporting documentation.

RELEASES AND WARRANTIES

1. The Claimant hereby acknowledges that he, she, or it has read and agrees to the terms of the Releases, the definition of Released Claims³, and the terms of the Exchange-Based Plaintiffs' Release and Covenant Not to Sue as set forth in the Settlement Agreement.⁴
2. The Claimant hereby warrants and represents that he, she, or it is a Class Member as defined in the Notices, that the Claimant is not one of the Releasees as defined in the Settlement Agreement, and that the Claimant believes that he, she, or it is eligible to receive a distribution from the Net Settlement Fund under the terms and conditions of the Distribution Plan.
3. The Claimant hereby certifies that the Claimant is NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because: (a) the Claimant is exempt from backup withholding; or (b) the Claimant has not been notified by the Internal Revenue Service (the "I.R.S.") that the Claimant is subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the I.R.S. has notified the Claimant that he, she, or it is no longer subject to backup withholding.
4. By signing and submitting this Proof of Claim form, Claimant: (i) consents to the disclosure of information relating to Claimant's transactions in Eurodollar futures and/or options on Eurodollar futures contracts from January 1, 2003 through May 31, 2011, for use in the claims administration process; and (ii) waives any protections provided by applicable bank secrecy, data privacy law, or any similar confidentiality protections with respect to information relating to Claimant's transactions in Eurodollar futures and/or options on Eurodollar futures contracts from January 1, 2003 through May 31, 2011, for use in the claims administration process.

NOTE: If the Claimant has been notified by the I.R.S. that he, she, or it is subject to backup withholding, please strike out the language that the Claimant is not subject to backup withholding in the certification above.

5. The Claimant agrees to execute a release and covenant not to sue in conformity with the Settlement Agreement in order to receive the Claimant's pro rata share of the Net Settlement Fund. The Claimant agrees that the submission of this Proof of Claim constitutes a full release of and covenant not to sue on the Released Claims against the Releasees as set forth in the Settlement Agreement and at the end of this Proof of Claim.
6. This release shall be of no force or effect unless and until the Court approves the Settlement and it becomes effective on the Effective Date.

³ "Released Claims," "Releasees," and "Releasers" are defined in the Settlement at ¶ 1(KK), ¶ 1(LL), and ¶ 1 (MM), respectively.

⁴ The terms of the Exchange-Based Plaintiffs' Release and Covenant Not to Sue are defined in the Settlement at ¶ 11.

7. The Claimant hereby warrants and represents that he, she, or it has not yet assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

I declare and affirm under penalties of perjury that the foregoing statements and the documents and information attached hereto, including the Social Security or Employee Identification Number shown on this Proof of Claim, are true, correct, and complete, and that I agree to the Release and Covenant Not to Sue. I understand that the withholding or misrepresentation of any information described herein may constitute a criminal offense subject to penalties.

This Proof of Claim and Release was executed this _____ day of _____, 20____ in _____,
(City/Province) (State/Country)

Signature of Claimant

Type or Print Name

Capacity of Person Signing (e.g., President, Trustee, Custodian, etc.)

If you are acting for an entity, please submit proof of your authority (e.g., corporate resolution, trust agreement, etc.).

REMINDER CHECKLIST:

1. Please sign the above release and declaration.
2. DO NOT USE HIGHLIGHTER ON THE PROOF OF CLAIM FORM.
3. Keep a copy of your Proof of Claim form and all documentation submitted for your records.
4. If you move after submitting this Proof of Claim, please send your new address to the Settlement Administrator at the address below:

USD LIBOR EURODOLLAR FUTURES SETTLEMENT
c/o A.B. DATA, LTD.
P.O. BOX 170999
MILWAUKEE, WI 53217-8091
info@USDLiborEurodollarSettlements.com

If You Transacted in Eurodollar Futures and/or Options on Eurodollar Futures on Exchanges, such as the Chicago Mercantile Exchange between January 1, 2003 and May 31, 2011,

You May Be Eligible to Receive Payment of a Portion of Additional Settlement Funds of \$3.45 Million.

If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.

This is a final settlement of a class action lawsuit involving the alleged manipulation of U.S. Dollar LIBOR ("LIBOR") and its impact on Eurodollar futures contracts and/or options on Eurodollar futures ("Eurodollar Futures") that are linked to LIBOR. If approved, the proposed Settlement of \$3.45 million with the Remaining Defendants would completely resolve the pending litigation in the Exchange-Based Action.

The Settlement with the Remaining Defendants – namely, Credit Suisse AG ("Credit Suisse"), Lloyds Bank plc and Bank of Scotland plc (together, "Lloyds"), NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) ("NatWest"), Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, "Portigon"), Royal Bank of Canada and RBC Capital Markets, LLC (together, "RBC"), Coöperatieve Rabobank U.A. (f/k/a Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) ("Rabobank"), The Norinchukin Bank ("Norinchukin"), MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), and UBS AG ("UBS") (together Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS are referred to the "Remaining Defendants") – impacts persons, corporations and other legal entities that transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including, without limitation, the Chicago Mercantile Exchange (the "CME"), between January 1, 2003 and May 31, 2011, inclusive. A detailed description and additional information on the case can be found on the settlement website. The Remaining Defendants have entered into this proposed settlement to resolve the claims asserted against them. The Remaining Defendants deny all claims of wrongdoing.

USD LIBOR EURODOLLAR FUTURES SETTLEMENT
c/o A.B. Data, Ltd.
P.O. Box 170990
Milwaukee, WI 53217

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE PAID
MILWAUKEE, WI
PERMIT NO. 3780

Postal Service: Please Do Not Mark or Cover Barcode

[NAME1]
[ADDR2]
[CITY] [ST] [ZIP]
[COUNTRY]

[Insert bar code or QR code]

Am I included? You are included in the Settlement as a Settlement Class Member if you transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including without limitation, the CME, between January 1, 2003 and May 31, 2011, inclusive.

What does the Settlement provide? The Settlement, if it receives final approval from the Court, will provide a \$3,450,000 Settlement Fund that will be used to pay eligible Settlement Class Members who submit valid claims. The Settlement brings the total settlement amount in the Exchange-Based Action to \$190,450,000. The Court previously granted Final Approval for seven settlements in this

Action, which created an aggregate Settlement Fund of \$3.45 billion. On October 21, 2024, the Court authorized distribution of the aggregate Settlement Fund and the distribution process is ongoing. If the Court approves this Settlement for \$3.45 million, a separate distribution motion will be made once the claims administration process is completed.

How can I get a payment? If you transacted in U.S. Dollar LIBOR-based Eurodollar futures and/or options on Eurodollar futures on exchanges such as the CME between January 1, 2003 and May 31, 2011 and do not exclude yourself from the Settlement Class, you must file a timely and valid Proof of Claim Form to be eligible for a payment. **If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** You may obtain a Proof of Claim Form on the settlement website referenced below and submit it online or by mail. The amount of any payment under the Settlement will be determined by the Proposed Plan of Distribution, which is available on the settlement website at www.USDLiborEurodollarSettlements.com. At this time, it is unknown how much each Settlement Class Member who submits a valid claim will receive. To be timely, all Proof of Claim Forms must be postmarked by mail or submitted electronically by **October 21, 2024**.

What are my rights? You have the right to remain a member of the Settlement Class or to exclude yourself from the Settlement Class. If you remain a member of the Settlement Class, and if the Settlement is approved, you may participate *pro rata* in the Net Settlement Fund for the Remaining Defendants by timely submitting a Proof of Claim Form. If you participate in the Settlement, you will, however, lose your right to individually sue any of the Remaining Defendants or their affiliated persons and entities for the alleged conduct, and will be bound by the Court's decisions concerning the Settlement. If you stay in the Settlement Class, you may object to the proposed Settlement, the proposed Plan of Distribution, attorneys' fees, and expense reimbursement mentioned below by **August 15, 2024**. Any objections must be filed with the Court and delivered to designated representative Settlement Class Counsel and counsel for the Defendants in accordance with the instructions set forth in the Full Notice.

If you want to keep your right to individually sue any of the Remaining Defendants or their affiliated persons and entities, you must exclude yourself from the Settlement Class by **August 15, 2024**, in the manner and form explained in the detailed Full Notice. All Settlement Class Members who have not timely and validly requested exclusion from the Settlement Class will be bound by any judgment entered in the litigation pursuant to the Settlement Agreement. If you properly and timely exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the litigation and you will not be eligible to receive any payments from the Net Settlement Fund for the Remaining Defendants if the Settlement is approved.

A hearing will be held on **September 5, 2024** before the Honorable Naomi Reice Buchwald, United States District Court Judge, in Courtroom 21A, at the Daniel Patrick Moynihan United States Courthouse, located at 500 Pearl Street, New York, New York 10007, for the purpose of determining, among other things, whether to approve the proposed Settlement, the proposed Plan of Distribution, Class Counsel's request for attorneys' fees of up to one third of the Settlement Fund, plus reimbursement of litigation expenses. You or your own lawyer may appear and speak at the hearing at your own expense.

THIS IS ONLY A SUMMARY OF THE FULL NOTICE AND SETTLEMENT AGREEMENT, WHICH CONTAIN MORE DETAILED INFORMATION THAT YOU SHOULD READ. THE FULL NOTICE AND THE SETTLEMENT AGREEMENT ARE AVAILABLE AT: www.USDLiborEurodollarSettlements.com. Class members should continue to review the settlement website for important updates about the Settlement and the litigation.

1-800-918-8964

www.USDLiborEurodollarSettlements.com

EXHIBIT B

Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP Announce You May Be Eligible to Receive Payment of a Portion of Additional Settlement Funds of \$3.45 Million If You Transacted in Eurodollar Futures and/or Options on Eurodollar Futures on Exchanges, between January 1, 2003 and May 31, 2011, Inclusive

NEWS PROVIDED BY

Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP →

May 20, 2024, 10:00 ET

NEW YORK, May 20, 2024 /PRNewswire/ --

If You Transacted in Eurodollar Futures and/or Options on Eurodollar Futures on Exchanges, such as the Chicago Mercantile Exchange between January 1, 2003 and May 31, 2011, inclusive,

You May Be Eligible to Receive Payment of a Portion of Additional Settlement Funds of \$3.45 Million

If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.

This is a final settlement of a class action lawsuit involving the alleged manipulation of U.S. Dollar LIBOR ("LIBOR") and its impact on Eurodollar futures and/or options on Eurodollar futures ("Eurodollar Futures") that are linked to LIBOR. If approved, the proposed Settlement of \$3.45 million with the Remaining Defendants would completely resolve the pending litigation in the Exchange-Based Action.

The Settlement with the Remaining Defendants – namely, Credit Suisse AG ("Credit Suisse"), Lloyds Bank plc and Bank of Scotland plc (together, "Lloyds"), NatWest Markets plc (f/k/a The Royal Bank of Scotland plc) ("NatWest"), Portigon AG (f/k/a WestLB) and Westdeutsche Immobilienbank AG (n/k/a Westdeutsche Immobilien Servicing AG) (together, "Portigon"), Royal Bank of Canada and RBC Capital Markets, LLC (together, "RBC"), Coöperatieve Rabobank U.A. (f/k/a Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) ("Rabobank"), The Norinchukin Bank ("Norinchukin"), MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), and UBS AG ("UBS") (together Credit Suisse, Lloyds, NatWest, Portigon, RBC, Rabobank, Norinchukin, MUFG, and UBS are referred to as the "Remaining Defendants") – impacts persons, corporations and other legal entities that transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including without limitation, the Chicago Mercantile Exchange (the "CME"), between January 1, 2003 and May 31, 2011, inclusive. A detailed description and additional information on the case can be found on the settlement website.

The Remaining Defendants have entered into this proposed settlement to resolve the claims asserted against them. The Remaining Defendants deny all claims of wrongdoing.

Am I included?

You are included in the Settlement as a Settlement Class Member if you transacted in Eurodollar futures and/or options on Eurodollar futures on exchanges, including without limitation, the CME, between January 1, 2003 and May 31, 2011, inclusive.

What does the Settlement provide?

The Settlement, if it receives final approval from the Court, will provide a \$3.45 million Settlement Fund that will be used to pay eligible Settlement Class Members who submit valid claims. The Settlement brings the total settlement amount in the Exchange-Based Action to

\$190,450,000. The Court previously granted Final Approval for settlements in this Action, which created an aggregate Settlement Fund of \$187,000,000 (the "Prior Settlements"). On October 24, 2023, the Court authorized distribution of the aggregate Settlement Fund and the distribution process is ongoing. If the Court approves this Settlement for \$3.45 million, a separate distribution motion will be made once the claims administration process is completed.

How can I get a payment?

If you transacted in U.S. Dollar LIBOR-based Eurodollar futures and/or options on Eurodollar futures on exchanges such as the CME between January 1, 2003 and May 31, 2011, inclusive, and do not exclude yourself from the Settlement Class, you must file a timely and valid Proof of Claim Form to be eligible for a payment. **If you previously submitted a valid claim in the Prior Settlements, you do not need to submit another Proof of Claim to participate in this Settlement unless you wish to amend your claim.** You may obtain a Proof of Claim Form on the settlement website referenced below and submit it online or by mail. The amount of any payment under the Settlement will be determined by the Proposed Plan of Distribution, which is available on the settlement website at www.USDLiborEurodollarSettlements.com. At this time, it is unknown how much each Settlement Class Member who submits a valid claim will receive.

To be timely, all Proof of Claim Forms must be postmarked by mail or submitted electronically by October 21, 2024.

What are my rights?

You have the right to remain a member of the Settlement Class or to exclude yourself from the Settlement Class. If you remain a member of the Settlement Class, and if the Settlement is approved, you may participate *pro rata* in the Net Settlement Fund for the Remaining Defendants by timely submitting a Proof of Claim Form. If you participate in the Settlement, you will, however, lose your right to individually sue any of the Remaining Defendants or their affiliated persons and entities for the alleged conduct, and will be bound by the Court's decisions concerning the Settlement. If you stay in the Settlement Class, you may object to the proposed Settlement, the proposed Plan of Distribution, and the request for attorneys' fees and

expense reimbursement mentioned below by August 15, 2024. Any objections must be filed with the Court and delivered to designated representative Settlement Class Counsel and counsel for the Defendants in accordance with the instructions set forth in the Full Notice.

If you want to keep your right to individually sue any of the Remaining Defendants or their affiliated persons and entities, you must exclude yourself from the Settlement Class by August 15, 2024, in the manner and form explained in the detailed Full Notice. All Settlement Class Members who have not timely and validly requested exclusion from the Settlement Class will be bound by any judgment entered in the litigation pursuant to the Settlement Agreements. If you properly and timely exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the litigation and you will not be eligible to receive any payments from the Net Settlement Fund for the Remaining Defendants if the Settlement is approved.

A hearing will be held on September 5, 2024 before the Honorable Naomi Reice Buchwald, United States District Court Judge, in Courtroom 21A, at the Daniel Patrick Moynihan United States Courthouse, located at 500 Pearl Street, New York, New York 10007, for the purpose of determining, among other things, whether to approve the proposed Settlement, the proposed Plan of Distribution, Class Counsel's request for attorneys' fees of up to one third of the Settlement Fund, plus reimbursement of litigation expenses. You or your own lawyer may appear and speak at the hearing at your own expense.

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www.USDLiborEurodollarSettlements.com

Class members should continue to review the settlement website for important updates about the Settlement and the litigation.

USD LIBOR EURODOLLAR FUTURES SETTLEMENT

c/o A.B. Data, Ltd.

P.O. Box 170990

Milwaukee, WI 53217



www.USDLiborEurodollarSettlements.com

info@USDLiborEurodollarSettlements.com

1-800-918-8964

SOURCE Kirby McInerney LLP and Lovell Stewart Halebian Jacobson LLP

EXHIBIT C

EXHIBIT D

| 3&Mo Performance Rating Fund | YTD 12Wk % Chg Chg (Tax Rtn) | 5 Yr % After Asset NAV | Net Asset Value Chg | | | |
|---|--------------------------------|------------------------|-----------------------|---|------------------------|-----------------------|
| A- G Stk | +9 +5 +5 | 28.15 -0.10 | | | | |
| A LC Gro | +13 +4 +10 | 16.92 -0.04 | | | | |
| Thivent Funds S | | | | | | |
| \$ 6.1 bil 800-847-4836 | | | | | | |
| A LC Val | +9 +7 +8 | 30.40n -0.06 | | | | |
| B MC Stk | +8 +3 +8 | 36.93n -0.43 | | | | |
| Thornburg Fds | | | | | | |
| \$ 16.6 bil 800-847-0200 | | | | | | |
| A Inc Bldr | +9 +9 +4 | 25.69 -0.01 | | | | |
| D Ltd Inc | +1 +1 +1 | 12.78 -0.02 | | | | |
| D Ltd Muni | +0 +0 +1 | 13.53 0.00 | | | | |
| TIACREF Inst | | | | | | |
| \$ 147 bil 877-518-9161 | | | | | | |
| E Bond Indx | -1 +1 -1.0 | 9.46 -0.03 | | | | |
| E Core Bond | +0 +1 0 | 9.02 -0.02 | | | | |
| A Eq Idx | +11 +5 +10 | 37.29 -0.10 | | | | |
| B Intl Eq | +9 +7 +5 | 14.19 -0.13 | | | | |
| B Itl Eq Id | +8 +5 +5 | 23.58 -0.13 | | | | |
| C LC Id 2020 | +4 +3 +4 | 19.31 -0.04 | | | | |
| C LC Id 2025 | +5 +3 +4 | 21.59 -0.05 | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| A- Qual Val | +8 +6 +7 | 14.15 0.02 | | | | |
| UM Funds | | | | | | |
| \$ 3.5 bil 800-480-4111 | | | | | | |
| A Behl Val | +6 +5 +8 | 84.43 -0.10 | | | | |
| USAA Aggressive Gr | | | | | | |
| \$ 71.9 bil 800-235-8396 | | | | | | |
| A+ AggressiveV | +16 +4 +9 | 60.77n -0.30 | | | | |
| USAA Gbl Mgd Vol | | | | | | |
| \$ 71.9 bil 800-235-8396 | | | | | | |
| A GblMgdVol | +8 +4 +5 | 10.82 -0.01 | | | | |
| USAA Group | | | | | | |
| \$ 71.9 bil 800-235-8396 | | | | | | |
| A+ 500 Index | +11 +5 +10 | 67.51n -0.12 | | | | |
| A CapitalGrow | +12 +7 +7 | 13.55n -0.07 | | | | |
| A Cornerstone | +10 +7 +6 | 17.20n -0.05 | | | | |
| C Cornerstone | +6 +4 +4 | 27.25n -0.09 | | | | |
| A+ Growth&Inc | +12 +6 +8 | 25.94n -0.07 | | | | |
| A Growth | +13 +4 +9 | 36.15n -0.06 | | | | |
| A IncomeStock | +10 +7 +7 | 20.00n -0.07 | | | | |
| A NASDAQ-100 | +10 +4 +14 | 46.49n -0.09 | | | | |
| A SustainlWorl | +12 +7 +7 | 29.74n -0.10 | | | | |
| D Tax-ExtInt-T | +0 +1 +2 | 12.53n 0.00 | | | | |
| D Tax-ExtLng-T | +0 +1 +2 | 12.04n 0.00 | | | | |
| A Value | +11 +7 +6 | 20.31n -0.06 | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| D- Int-Tm Inv | +0 +1 0 | 8.51n -0.02 | | | | |
| E Int-Tm Trs | -1 +0 0 | 9.74n -0.02 | | | | |
| D+ Int-Tm TxEx | +0 +0 +2 | 13.58n -0.01 | | | | |
| E Intl Gro | +9 +7 +6 | 111.45n -0.44 | | | | |
| A+ Lg-Cp I | +11 +5 +10 | 122.53n -0.22 | | | | |
| E Lng-Tm Inv | -3 +0 -1.0 | 7.74n -0.01 | | | | |
| E Lng-Tm Trs | -5 +0 -3.0 | 8.20n -0.01 | | | | |
| D Lng-Tm Tx-Ex | +0 +0 +2 | 10.86n -0.01 | | | | |
| C Lt-Tm TxEx | +0 +0 +2 | 10.79n 0.00 | | | | |
| B MC G I | +6 +4 +7 | 100.49n -0.39 | | | | |
| B MC V I | +8 +7 +6 | 80.46n -0.22 | | | | |
| B Md-Cp I | +7 +5 +7 | 307.42n -0.99 | | | | |
| D NJ Lng-Trm | +0 +0 +2 | 11.34n -0.01 | | | | |
| D NY Lng-Trm | +0 +0 +2 | 10.86n -0.01 | | | | |
| D PA Lng-Trm | +0 +0 +2 | 10.79n -0.01 | | | | |
| D Pac Stk | +4 +3 +3 | 92.69n -0.38 | | | | |
| A+ PRIMECAP | +11 +7 +10 | 173.11n -0.93 | | | | |
| D RE Idx | -3 +0 +1 | 120.27n -0.16 | | | | |
| C S-C Id | +6 +4 +6 | 107.91n -0.84 | | | | |
| D SCG Id | +6 +2 +5 | 89.69n -0.86 | | | | |
| B SCV I | +6 +5 +6 | 81.61n -0.51 | | | | |
| D Sh-Tm B | +0 +1 0 | 10.01n -0.02 | | | | |
| D Sh-Tm Fed | +1 +1 +1 | 10.02n -0.02 | | | | |
| D Sh-Tm Inv | +1 +1 +1 | 10.18n -0.01 | | | | |
| D Sh-Tm Trs | +1 +1 0 | 9.76n -0.01 | | | | |
| C Sh-Tm Tx-Ex | +1 +1 +1 | 15.72n 0.00 | | | | |
| D ST Corp Bd | +1 +1 +1 | 20.99n -0.02 | | | | |
| D ST Trs | +1 +1 0 | 19.29n -0.02 | | | | |
| B TM Bal | +5 +3 +6 | 43.15n -0.06 | | | | |
| A TM Cp App | +11 +5 +10 | 273.50n -0.67 | | | | |
| C TM SmCp | +2 +2 +6 | 89.66n -0.31 | | | | |
| E Tot Bd | +1 -1 -1.0 | 9.48n -0.02 | | | | |
| D Tot Intl BI | +0 +1 0 | 19.53n -0.02 | | | | |
| A TSM Idx | +11 +5 +10 | 127.48n -0.32 | | | | |
| B US Growth | +13 +3 +10 | 165.32n -0.62 | | | | |
| A Util Indx | +15 +19 +4 | 78.69n -0.17 | | | | |
| A Val Idx | +10 +7 +8 | 63.66n -0.05 | | | | |
| C Wellesley | +3 +4 +3 | 61.51n -0.07 | | | | |
| B Wellington | +7 +5 +6 | 75.97n -0.18 | | | | |
| A Windsor II | +10 +6 +10 | 83.75n -0.23 | | | | |
| A Windsor | +7 +7 +9 | 77.17n -0.02 | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| B Tgt Ret2040 | +7 +5 +6 | 42.05n -0.08 | | | | |
| B+ Tgt Ret2045 | +8 +5 +6 | 28.73n -0.06 | | | | |
| B+ Tgt Ret2050 | +8 +6 +7 | 48.13n -0.10 | | | | |
| B+ Tgt Ret2055 | +8 +6 +7 | 53.71n -0.11 | | | | |
| B+ Tgt Ret2060 | +8 +6 +7 | 49.48n -0.10 | | | | |
| C TotIntStk | +7 +7 +4 | 19.88 -0.03 | | | | |
| Victory Funds | | | | | | |
| \$ 14.1 bil 800-539-3863 | | | | | | |
| A Dvrd Stock | +12 +5 +9 | 21.40 -0.16 | | | | |
| A RS Growth | +16 +5 +8 | 28.48 -0.08 | | | | |
| A+ RSLgCpAlpha+15 | +10 +6 | 61.93 -0.10 | | | | |
| B Sm Co Opp | +2 +1 +6 | 49.44 -0.25 | | | | |
| Victory:Estab Val | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| A Estab Val | +8 +5 +9 | 49.80 -0.06 | | | | |
| Victory:Global En Tran | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| A GlobalEnTra | +16 +22 +15 | 32.76 -0.20 | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| A+ KAR SmCp Cr | +5 +2 +10 | 54.60 -0.62 | | | | |
| C NvflleetMSST | +2 +1 +1 | 4.48 -0.01 | | | | |
| Victory:RS Global | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| A RS Global | +12 +8 +9 | 22.80 -0.08 | | | | |
| Victory:RS Partners | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| A RS Partners | +7 +4 +8 | 30.27 -0.23 | | | | |
| Victory:IMkt Mkt Neu I | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| C Mkt Neu I | -1 +2 | 8.59 0.05 | | | | |
| Virtus Equity Trust | | | | | | |
| \$ 4.0 bil 800-243-1574 | | | | | | |
| E KAR Sm-Cp G | -2 -3 +4 | 32.67 -0.18 | | | | |
| VirtusFunds | | | | | | |
| \$ 6.0 bil 800-243-1574 | | | | | | |
| A Silvant FG | +17 +6 +12 | 77.53 -0.19 | | | | |
| Victory:Global En Tran | | | | | | |
| \$ 23.1 bil 800-539-3863 | | | | | | |
| A ZvnbrgnTech | +16 +3 +11 | 77.39 -0.27 | | | | |
| VirtusFunds CI I | | | | | | |
| \$ 8.2 bil 800-243-1574 | | | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| A+ KAR SmCp Cr | +5 +2 +10 | 54.60 -0.62 | | | | |
| C NvflleetMSST | +2 +1 +1 | 4.48 -0.01 | | | | |
| Voya Fds | | | | | | |
| \$ 7.3 bil 800-992-0180 | | | | | | |
| A GblHdVlWorl | +7 +5 +4 | 43.95 -0.03 | | | | |
| E Intmtd Bd | +0 +1 0 | 8.62 -0.02 | | | | |
| A+ Large-CapGr | +17 +4 +10 | 54.10 -0.24 | | | | |
| Wesatch | | | | | | |
| \$ 5.8 bil 800-551-1700 | | | | | | |
| C Core Gro | +1 -2 +7 | 87.50n -0.68 | | | | |
| WCM Focus Funds | | | | | | |
| \$ 19.1 bil 888-988-9801 | | | | | | |
| C FocusedITIG | +11 +3 +7 | 25.28 -0.10 | | | | |
| Weitz Funds | | | | | | |
| \$ 4.7 bil 888-859-0698 | | | | | | |
| A Value | +6 +2 +8 | 54.61n -0.10 | | | | |
| WesMark Funds | | | | | | |
| \$ 822 mil 800-864-1013 | | | | | | |
| 3&Mo Performance Rating Fund <td>YTD 12Wk % Chg Chg (Tax Rtn)<td>5 Yr % After Asset NAV</td><td>Net Asset Value Chg</td></td> | | | | YTD 12Wk % Chg Chg (Tax Rtn) <td>5 Yr % After Asset NAV</td> <td>Net Asset Value Chg</td> | 5 Yr % After Asset NAV | Net Asset Value Chg |
| A 500 Index | +10 +5 +9 | 30.26 -0.08 | | | | |

EXHIBIT B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

Master File No. 11-md-2262 (NRB)

THIS DOCUMENT RELATES TO:

METZLER INVESTMENT GmbH, et al.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.,

Defendants.

**DECLARATION OF DAVID E. KOVEL IN SUPPORT OF INTERIM CO-LEAD
COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF LITIGATION EXPENSES
FILED ON BEHALF OF KIRBY MCINERNEY LLP**

I, David E. Kovel, declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a partner at the law firm of Kirby McInerney LLP (“Kirby”), one of the Court-appointed Interim Co-Lead Counsel for the Exchange-Based Plaintiffs (“Plaintiffs”) in the above-captioned action (the “Action”). I submit this declaration in support of Interim Co-Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. On April 15, 2011, Kirby, together with its co-counsel, filed the first complaint in this Action. Since being appointed Interim Co-Lead Counsel for the Exchange-Based Plaintiffs on November 29, 2011 (*see* MDL ECF No. 66), together with Interim Co-Lead Counsel at the law firm of Lovell Stewart Halebian Jacobson LLP, my firm has overseen and directed all aspects of the Exchange-Based Action. The specifics of the work performed by my firm are set forth in the concurrently-filed Joint Declaration of David E. Kovel and Christopher Lovell in Support of (A) Exchange-Based Plaintiffs’ Motion for Final Approval of Class Action Settlement, and (B) Exchange-Based Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses. By way of summary, since the final approval of the Prior Settlements, Kirby has continued to litigate on behalf of the Exchange-Based Plaintiffs and the proposed Settlement Class, by *inter alia*: (i) filing amended pleadings; (ii) negotiating litigation schedules in coordination with other classes and direct-action plaintiffs; (iii) engaging in motion practice; (iv) responding to and serving written discovery; (v) performing legal research; (vi) conducting substantive document review using technology assisted review protocols; (vii) conferring and collaborating with counsel for other classes and direct-action plaintiffs with respect to litigation strategy; (viii) developing settlement strategy; (ix) compiling evidence relating to the

Settling Defendants; and (x) negotiating a global settlement with each of the Settling Defendants that, if approved, would result in the resolution of all claims in the Exchange-Based Action.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed five or more hours to this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. Time expended on Interim Co-Lead Counsel's application for attorneys' fees and reimbursement of litigation expenses has been excluded. Before submitting this declaration, my firm's time and expenses were reviewed for accuracy, necessity, and reasonableness. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment. As a result of this review and adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the efficient prosecution and resolution of this Action.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are in line with the rates by other lawyers at law firms handling large, complex class action litigation and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, from August 13, 2020 through July 26, 2024, is 1,221.90. The total lodestar reflected in Exhibit 1 for that period is \$998,860.00, consisting of \$943,072.50 for attorneys' time and \$55,787.50 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$113,531.53 in litigation expenses incurred in connection with the prosecution of this Action from August 13, 2020 through July 26, 2024. "Document Management/Litigation Support" constitutes \$58,054.76 (or 51.14%) of the total expenses for which Kirby McInerney seeks reimbursement. These costs reflect document management and e-discovery consulting fees paid to TransPerfect Legal Solutions Inc. relating to Plaintiffs' discovery efforts. "Experts" totals \$50,464.00 (or 44.45%) of the total expenses. This figure is comprised of \$25,164.00 paid to Fideres Partners LLP relating to expert analysis relating to classwide damage analyses used in connection with settlement efforts. The remaining \$25,300.00 in "Expert" costs reflects fees paid to Professor H. Nejat Seyhun, relating to work performed in connection with responding to Defendants' discovery requests.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses, do not contain any general overhead costs, and do not contain a surcharge over the amount paid to the corresponding vendor(s). There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on August 1, 2024 in New York, New York.

/s/ David E. Kovel

David E. Kovel

EXHIBIT 1

EXHIBIT 1
KIRBY McINERNEY LLP
TIME REPORT

August 13, 2020 to July 26, 2024

| NAME | HOURS | HOURLY RATE | LODESTAR |
|------------------------|-----------------|--------------------|---------------------|
| Partners | | | |
| Thomas Elrod | 189.30 | \$1,100 | \$208,230.00 |
| Anthony Maneiro | 171.90 | \$900 | \$154,710.00 |
| David Kovel | 108.50 | \$1,250 | \$135,625.00 |
| Karen Lerner | 31.40 | \$1,200 | \$37,680.00 |
| | | | |
| Associates | | | |
| Marko Radisavljevic | 333.20 | \$700 | \$233,240.00 |
| Belden Nago | 200.10 | \$800 | \$160,080.00 |
| James Isacks | 13.70 | \$400 | \$5,480.00 |
| | | | |
| Staff Attorneys | | | |
| Christopher Lee (*) | 16.90 | \$475 | \$8,027.50 |
| | | | |
| Senior Analyst | | | |
| Elaine Mui | 57.70 | \$475 | \$27,407.50 |
| | | | |
| Paralegals | | | |
| Elizabeth Ely (*) | 44.00 | \$300 | \$13,200.00 |
| Marya Jureidini (*) | 38.60 | \$275 | \$10,615.00 |
| Casey Liu | 10.90 | \$275 | \$2,997.50 |
| Isabelle Sohn (*) | 5.70 | \$275 | \$1,567.50 |
| | | | |
| TOTALS | 1,221.90 | | \$998,860.00 |

(*) The time for former employees was recorded prior to their departures and reflect their billing rates in his or her final year of employment.

EXHIBIT 2

EXHIBIT 2
KIRBY McINERNEY LLP
EXPENSE REPORT

August 13, 2020 to July 26, 2024

| CATEGORY | AMOUNT |
|--|---------------------|
| Online Legal Research | \$4,256.51 |
| Document Retrieval (Including PACER) | \$609.70 |
| Document Management/Litigation Support | \$58,054.76 |
| Local Travel | \$101.48 |
| Meals | \$45.08 |
| Experts | \$50,464.00 |
| TOTAL EXPENSES: | \$113,531.53 |

EXHIBIT 3



KIRBY MCINERNEY

Kirby McInerney LLP is a specialist plaintiffs' litigation firm with expertise in antitrust, consumer, commodities, securities, structured finance, whistleblower, healthcare, and other fraud litigation. Throughout our 75-year history, the firm has achieved landmark results and recovered billions of dollars for our clients. In the last decade, KM and our attorneys have emerged as leaders in antitrust litigation with a special focus on violations in the financial services industry, leading ground-breaking litigation, including on appeal.

Our firm has decades of experience representing investors in litigation relating to market manipulation and price fixing for both indirect and direct purchasers, in cases brought under the Sherman Act and state law analogs. KM especially excels in redressing complex financial fraud involving highly specialized markets, such as financial derivatives, where the firm continues to break new ground in terms of the law and size of settlements. The firm has been involved in some of the most cutting-edge areas of market manipulation cases of the last three decades, including participating in the seminal case related to Sumitomo Corporation's manipulation of the copper market, and, more recently, filing the first lawsuit related to the high-profile manipulation of the LIBOR benchmark rate, discussed below.

In addition to our work involving financial products, our experience further spans the markets for gasoline, propane, cement, concrete, steel, potash, silver, and others. KM has extensive experience prosecuting cases against corporations in these industries for violations of the full breadth of antitrust laws: illegal price fixing, unlawful monopolization, monopoly leveraging, illegal tying arrangements, illegal mergers or acquisitions, unfair competition, exclusive dealing, and refusals to deal.

Some of our notable work includes:

- Filing the first private litigation relating to LIBOR manipulation and serving in leadership roles in the LIBOR multi-district litigation, *In re Libor-Based Financial Instruments Antitrust Litig.*, 11-md-02262 (S.D.N.Y.). Specifically, KM is acting as court appointed co-liaison counsel for all class actions in the multi-district litigation and are co-lead counsel for the exchange-based class alleging the fixing of prices of the LIBOR benchmark interest rate. Amongst other successes, KM recently secured the reversal of a lower court ruling that dismissed many foreign banks from the LIBOR action, which is now proceeding against certain non-settling defendants.
- Acting as lead counsel on behalf of the New Mexico State Investment Council in *New Mexico State Investment Council v. Bank of America Corp. et al.*, 21-cv-00606 (D.N.M.) alleging that leading credit default swap (CDS) dealers took part in a more than decade-long, multibillion-dollar scheme to manipulate the benchmark prices used to value credit default swap contracts at settlement.
- Acting as court-appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, 20-cv-03556 (N.D.C.A.), representing publishers alleging that Google monopolized and suppressed competition in online display advertising.
- Acting as lead counsel and head of the discovery committee to a putative class of direct purchasers of brand name and generic equivalents of extended-release venlafaxine hydrochloride capsules against drug manufacturers in *In re Effexor XR Antitrust Litig.*, 11-cv-05479 (D.N.J.). Among the claims, defendants are alleged to have delayed market entry of generic versions and entered reverse payment settlements.
- Acting as one of the firms with primary responsibility for *In re Visa Check/MasterMoney Antitrust Litig.*, 96-cv-05238 (E.D.N.Y.), a case on behalf of a class of retailers in connection with Visa MasterCard policies pertaining

to debit card fees. The litigation resulted in a settlement of over \$3 billion for the class and landmark injunctive relief.

- Serving as lead counsel to classes of indirect purchasers in connection with antitrust proceedings against Microsoft in *Charles Cox and Old Factories, Inc. v. Microsoft Corp.*, 105193/00, Part 3 (N.Y. Sup. Ct.); *Gordon, et al. v. Microsoft Corp.*, MC 00-5994 (Minn. Dist Ct. Hennepin County). These litigations resulted in settlements totaling nearly a billion dollars for consumers in the States of New York, Florida, Tennessee, West Virginia, and Minnesota (where the litigation proceeded to trial). The specific cases cited here, conducted on behalf New York and Minnesota consumers, resulted in recoveries of approximately \$350 million and \$175 million, respectively. In addition, KM served as consulting and advisory counsel to Canadian lead counsel in a similar Canadian class action.
- Acting as lead counsel in *In re JPMorgan Treasury Futures Spoofing Litig.*, 20-cv-03515 (S.D.N.Y.) alleging that JPMorgan unlawfully and intentionally manipulated U.S. Treasury Futures or Options on U.S. Treasury Futures traded on United States-based exchanges, including but not limited to the Chicago Mercantile Exchange, including its subsidiary the Chicago Board of Trade, during the Class Period in violation of the Commodity Exchange Act, 7 U.S.C. §§ 1, et seq. (the “CEA”) and the common law. The case resulted in a settlement of \$15.7 million.
- Acting as co-lead counsel on behalf of a putative class of investors in *In re Deutsche Bank Spoofing Litig.*, 20-cv-03638 (N.D. Ill.), a trading markets manipulation case alleging manipulation through “spoofing” of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Acting as co-lead counsel of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, 20-cv-04090 (N.D. Ill.), a commodities manipulation case alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Acting as special fiduciary counsel for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-07789 (S.D.N.Y.) for a putative class of participants who traded futures and options in the FX market alleging that 16 of the most prominent investment banks conspired to manipulate the FX rate. The case has already resulted in partial settlements of more than \$2.3 billion.
- Serving in a leadership capacity on behalf of live cattle futures traders in *In re Cattle Antitrust Litigation*, 19-cv-1222 (D. Minn.), a proprietary case on behalf of cattle producers and cattle futures traders. The suit alleges that the “Big 4” meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Acting as counsel to gold purchasers in *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, No. 14-md-02548 (S.D.N.Y.), a market manipulation case. This case has resulted in aggregate settlements of \$152 million, subject to final approval.
- Acting as co-lead counsel on behalf of a putative class of investors in *In re Natwest Treasury Futures Spoofing Litig.*, 22-cv-00479, (N.D. of Ill), a trading markets manipulation case alleging manipulation through “spoofing” of U.S. Treasury futures.
- Acting as counsel in *In re Sumitomo Copper Litig.*, 96-cv-4584 (S.D.N.Y.), a seminal case involving Sumitomo Corporation’s manipulation of the copper market which resulted in a settlement of over \$140 million.
- Acting as lead counsel in *In re Reformulated Gasoline (RFG) Antitrust and Patent Litig. and Related Actions*, 05-cv-01671 (C.D.C.A.), an antitrust class action pertaining to Unocal’s alleged manipulation of the standard-setting process for low-emissions reformulated gasoline in California, which plaintiffs claim caused inflated retail prices. This litigation resulted in a \$48 million settlement for indirect purchasers.



Daniel Hume is a managing partner based in our New York office. He leverages more than 25 years of experience to help institutional investors, financial institutions, and individuals recover losses and achieve favorable outcomes in class action and direct securities litigation.

Additionally, he has prosecuted antitrust class actions and obtained significant monetary relief for consumers. Mr. Hume is a partner in our New York office and a member of the firm's management committee.

Some of Mr. Hume's securities work includes:

- Lead counsel representing Wespeth, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements – including in connection with its secondary public stock offerings – concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Counsel in *Maverick Neutral Levered Fund, Ltd. v. Valeant Pharmaceuticals International, Inc.*, alleging that Valeant materially misrepresented its business model, touting artificial and unsustainable growth that was enabled by the company's deceptive and illegal conduct.
- Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries, alleging that HSBC ran money laundering operations out of New York City. The litigation settled for \$72.5 million, the then largest foreign derivatives settlement ever reached and one of the largest insurer-funded cash payments achieved in a U.S. derivatives lawsuit.
- Lead counsel for the investor class in *In re AT&T Wireless Tracking Stock Securities Litigation*, a securities class action which resulted in recovery of \$150 million for the class.
- Lead counsel for a group of Singapore-based investors in a securities class action, *Dandong v. Pinnacle Performance Ltd*, against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. This litigation resulted in a \$20 million recovery.
- Lead counsel for the investor class in *In re MOL Global, Inc. Securities Litigation*, a securities class action lawsuit alleging that e-payment enabler MOL Global misled shareholders prior to its initial public offering. This litigation resulted in a \$8.5 million recovery.
- Representation of foreign financial institutions in individual lawsuits against Morgan Stanley, Credit Agricole Corporate and Investment Bank, UBS, Deutsche Bank, Credit Suisse, Goldman Sachs, J.P. Morgan, and Barclays pertaining to a number of fraudulent structured investment vehicles and asset-backed collateralized debt obligations.

Some of Mr. Hume's antitrust work includes:

- Lead counsel for consumer classes in connection with antitrust proceedings against Microsoft in the United States and consulting and advisory counsel to Canadian lead counsel in Canada. These litigations have resulted in settlements totaling over \$1 billion for consumers in Canada, Florida, New York, Tennessee, West Virginia, and Minnesota, where the litigation proceeded to trial.
- Representation of a class of retailers in *In re Visa Check/Master Money Antitrust Litigation*, an antitrust case which resulted in a settlement of over \$3 billion for the class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.

Mr. Hume is admitted to the New York State Bar, U.S. District Courts for the Southern and Eastern Districts of New York, U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Eighth, and Ninth Circuits, The Appellate Division of the Supreme Court of the State of New York, First Judicial Department, and The United States Supreme Court. Mr. Hume graduated from State University of New York at Albany (B.A. *magna cum laude*, 1988) and Columbia Law School (J.D. 1991).



David E. Kovel is Co-Managing Partner of the firm and is based in our New York office. A former commodities trader, he has extensive experience representing plaintiffs in groundbreaking whistleblower, commodities, antitrust, securities, and corporate governance matters, including on appeal. His work in these areas, which often deals with fraud related to complex financial instruments, continues to set precedents both in terms of the law and size of settlements.

Since June 2021, amongst other activities, Mr. Kovel obtained the then-largest publicly announced single whistleblower award arising under the Dodd-Frank and IRS whistleblower programs, and successfully reversed a lower court ruling that dismissed a large number of foreign banks from *In re Libor-Based Financial Instruments Antitrust Litigation*, the high-profile litigation related to the banks' alleged fixing of the LIBOR benchmark rate, which is now proceeding against certain non-settling defendants.

Mr. Kovel is the head of the litigation section of the New York City Bar Association Committee on Futures and Derivatives Regulation and is a former member of the New York City Bar Association

Antitrust Committee. Prior to joining KM, Mr. Kovel practiced at Simpson Thacher & Bartlett LLP. He speaks Spanish and at one time played professional soccer in Nicaragua.

Some of Mr. Kovel's public whistleblower work includes:

- Represented the person who received nearly \$200 million, the largest-ever individual whistleblower award arising under the Dodd-Frank whistleblower reward program and the then-largest arising under other whistleblower programs including the IRS and the federal and state false claims acts (CFTC WB Award No. 21-WB-07). The information the whistleblower provided catalyzed investigations by the Commodity Futures Trading Commission (CFTC), a U.S. federal regulator, and a foreign regulator into the manipulation of crucial financial benchmarks used by global banks as the basis for the pricing of fixed income securities and derivative products. The CFTC initially rejected the whistleblower's award application, but Mr. Kovel's advocacy resulted in a successful appeal for the client.
- Obtained an \$8.5 million award – the largest-ever settlement in a declined New York State False Claims Act case – for a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, a groundbreaking case against Moody's and others under the New York State False Claims Act. The litigation brought to light a multi-year, multi-million-dollar tax fraud scheme executed by Moody's and its consultants wherein the company repeatedly underpaid city and state taxes by maintaining a sham insurance corporation as a subsidiary. Mr. Kovel was successful both before the trial court as well as on appeal before the New York City First Department.
- Representation of a whistleblower who alleges that waste-to-energy plant operator Covanta violated environmental regulations by creating hazardous ash as a by-product of the burning of garbage from multiple Long Island towns in *State of New York v. Covanta Hempstead Company et al.* The case has been brought on behalf of New York State, certain local governments on Long Island, and the Long Island Power Authority (LIPA). Over the course of a decade, these local governments paid \$890 million to Covanta to take their communities' garbage in an environmentally safe way. As alleged, Covanta did not, in fact, abide by the necessary protocols to keep the ash that was dumped in the Brookhaven landfill from being hazardous.

Some of Mr. Kovel's confidential ongoing and resolved whistleblower work includes:

- Commodities
- Securities
- Procurement fraud
- Medical Device/Pharmaceutical fraud

Some of Mr. Kovel's appellate work includes:

- Achieved reversal by the Second Circuit under antitrust pleading standards in *Wacker v. J.P. Morgan Chase & Co.* on behalf of traders of silver futures, alleged victims of market manipulation. The case preceded a related Department of Justice criminal investigation into J.P. Morgan that resulted in an over-\$920 million criminal penalty, the then-largest amount of

monetary relief ever imposed by the CFTC.

- Mr. Kovel is involved in various appeals before the Second Circuit on pleading standards, jurisdiction, class certification, and other matters stemming from the high-profile *In re Libor-Based Financial Instruments Antitrust Litigation*, including *Gelboim v. Credit Suisse Group AG*, alleging the fixing of prices of the LIBOR benchmark interest rate.
- Obtained an \$8.5 million award – the largest-ever settlement in a declined New York State False Claims Act case – for a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, a groundbreaking case against Moody's and others under the New York State False Claims Act. The litigation brought to light a multi-year, multi-million-dollar tax fraud scheme executed by Moody's and its consultants wherein the company repeatedly underpaid city and state taxes by maintaining a sham insurance corporation as a subsidiary. Mr. Kovel was successful both before the trial court as well as on appeal before the New York City First Department.
- Argued an appeal before the Second Circuit on behalf of natural gas futures traders in *Anastasio v. Total Gas & Power North America* alleging market manipulation.

Some of Mr. Kovel's commodities work includes:

- Court-appointed co-liaison counsel for all class actions in the multi-district litigation and co-lead counsel for exchange-based class in the high-profile *In re Libor-Based Financial Instruments Antitrust Litigation and FTC Capital GMBH et al. v. Credit Suisse Group AG et al.* alleging the fixing of prices of a benchmark interest rate. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a “futures only” settlement under the Commodity Exchange Act.
- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, and related cases alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. Mr. Kovel and the firm obtained a favorable appeal decision at the Second Circuit Court of Appeals under antitrust laws. The case preceded a related Department of Justice criminal investigation into J.P. Morgan that resulted in an over-\$920 million criminal penalty, the then-largest amount of monetary relief ever imposed by the CFTC.
- Lead counsel on behalf of the New Mexico Attorney General's Office and the New Mexico State Investment Council in *In re Credit Default Swaps Auctions Litigation* alleging that leading credit default swap (CDS) dealers took part in a more than decade-long, multibillion-dollar scheme to manipulate the benchmark prices used to value credit default swap contracts at settlement.
- Selected by the court as co-lead counsel in *In re J.P. Morgan Treasury Futures Spoofing Litigation*, alleging that defendants manipulated U.S. Treasury futures for more than a decade and that this conduct contributed to the bank's recent \$920 million settlement with the DOJ, CFTC, and SEC. The case resulted in a settlement of \$15.7 million.

- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.* alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Counsel to a putative class of investors in *In re Deutsche Bank Spoofing Litigation* alleging manipulation through “spoofing” of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Court-appointed executive committee member and class counsel in *In re Bank of Nova Scotia Spoofing Litigation* alleging that defendants manipulated precious metals futures traded on the New York Mercantile Exchange and the Commodity Exchange, Inc.
- Court-appointed executive committee member and class counsel representing cattle producers and cattle futures traders in *In re Cattle Antitrust Litigation*. The suit alleges that the “Big 4” meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Co-lead counsel in *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions*, an antitrust class action pertaining to Unocal’s alleged manipulation of the standard-setting process for low-emissions reformulated gasoline in California, which plaintiffs claim caused inflated retail prices. The case resulted in a \$48 million settlement for indirect purchasers.
- Co-lead counsel for a class of propane purchasers in *In re BP Propane Indirect Purchaser Antitrust Litigation* alleging that defendants monopolized, artificially inflated and/or otherwise improperly manipulated the price of TET propane in the United States, in violation of state and federal antitrust laws. The case resulted in a \$15 million settlement.
- Acted as part of a leadership group which secured a \$13 million settlement for a class of potash purchasers in *In re Potash Antitrust Litigation*, a case alleging certain suppliers of potash, an ingredient in agricultural fertilizers, fixed prices in violation of the Section 1 of the Sherman Act.
- Representation of the defendant in *CFTC v. Shak*, a case brought by the CFTC under the Commodity Exchange Act’s newest provisions for violations of an administrative order in the gold futures market.
- Counsel for a plaintiff on behalf of gold purchasers in *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, a market manipulation case. The case resulted in settlements of \$152 million.
- Acted as an expert for bankrupt debtor, a purchaser of metals, in *In re Exide Technologies* opining on the dynamics of plaintiffs’ side representation in antitrust and commodities market cases.

Some of Mr. Kovel’s other antitrust work includes:

- Co-lead counsel on behalf of the Wayne County Pension Fund in *In re Ductile Iron Pipe Fittings Antitrust Litigation* alleging the raising and fixing of prices in the market for ductile iron pipe fittings. The case resulted in a settlement of \$4.1 million.

- Lead counsel to various classes of indirect purchasers in connection with major antitrust proceedings against Microsoft. The litigations resulted in settlement totaling nearly a billion dollars for consumers in the states of New York, Florida, Tennessee, West Virginia, and Minnesota (where the litigation proceeded to trial).
- Representation of the City of New York against GlaxoSmithKline in *The City of New York v. GlaxoSmithKline PLC and SmithKline Beecham Corporation* to recover overcharges incurred in connection with the City's purchases for Paxil. The case alleged violations of the federal and state antitrust laws and fraudulent and deceptive conduct before the U.S. Patent Trademark Office and the United States Food and Drug Administration. The case resulted in a recovery of over \$1 million for the City Medicaid Program.

Some of Mr. Kovel's corporate governance work includes:

- Lead counsel in *In re Pfizer Inc. Shareholder Derivative Litigation*, a shareholder derivative action. Mr. Kovel and the firm obtained a \$75 million award and groundbreaking changes to the Board of Director's oversight of regulatory matters.
- Representation of an ad hoc group of shareholders in *In re: Intelsat S.A., et al.*, the Intelsat bankruptcy proceedings, successfully obtaining warrants for the shareholders in a multi-party trial before the bankruptcy court in Virginia.

In addition to his work listed above, Mr. Kovel has an active pro bono practice. He currently serves as General Counsel to the World Jurist Association in a *pro bono* capacity, and has represented, amongst others: clients in need of housing referred through the office of *pro se* litigation in the Southern District of New York; whistleblowers in various governmental settings; clients in foreclosure matters; and a Latino soccer association in its efforts organize and obtain a fair proportion of field time from a municipality.

Mr. Kovel is admitted to the New York State Bar, the Connecticut State Bar, the U.S. District Courts for the Southern, Eastern, and Western Districts of New York, the U.S. Court of Appeals for the First Circuit, Second Circuit, and D.C. Circuit. He has been a member of the New York City Bar Association Committee on Futures and Derivatives Regulation and is a former member of the New York City Bar Association Antitrust Committee. He graduated from Yale University (B.A.), Columbia University School of Law (J.D.), and Columbia University Graduate School of Business (M.B.A.).



Thomas W. Elrod is a partner based in our New York office focusing on securities, commodities, and antitrust litigation. Mr. Elrod joined the firm in 2011.

Some of Mr. Elrod's securities experience includes:

- Lead counsel representing Wespath, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Co-lead counsel in *Macovski v. Groupon Inc. et al.*, a securities class action alleging that the company made materially false and misleading statements and failed to disclose to investors its financial health before ending its sale of physical goods and announcing the departure of two top executives. The case resulted in a \$13.5 million settlement that has received final approval.
- Lead counsel in *In re Citigroup Inc Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million.
- Class counsel in *Shah v. Zimmer Biomet Holdings*, a securities class action alleging that a medical device company did not disclose systemic quality issues at its manufacturing facility. The case resulted in a \$50 million settlement.
- Co-lead counsel in *Kokareva v. Bristow Group Inc.*, a securities class action alleging that an aviation services provider focused on the oil and gas sector made materially false and misleading statements about its internal controls relating to covenants in the company's secured financing agreements. The case resulted in a \$6.25 million settlement that has received final approval.
- Lead counsel in *In re Hi-Crush Partners L.P. Securities Litigation*, a securities class action alleging that fracking sand producer Hi-Crush Partners misled shareholders regarding a major customer relationship. This case resulted in a \$3.8 million settlement.
- Lead counsel in *Barfuss v. DGSE Companies, Inc.*, a securities class action alleging that a company that sold precious metals to wholesale and retail customers filed materially misleading financial statements. The case resulted in a \$1.7 million settlement.
- Co-lead counsel in *In re Resonant Inc. Securities Litigation*, a securities class action alleging that a mobile phone component company misled investors concerning its ability to meet the terms of a development agreement. The case resulted in a \$2.75 million settlement.
- Representation of municipal issuers, including governmental entities and hospital systems, in FINRA arbitrations alleging misrepresentations by underwriters in connection with Auction Rate Securities issuances.

Some of Mr. Elrod's antitrust and commodities experience includes:

- Selected by the Court as co-lead counsel in *In re J.P. Morgan Treasury Futures Spoofing Litigation*, alleging that defendants manipulated U.S. Treasury futures for more than a decade and that this conduct contributed to the bank's recent \$920 million settlement with the DOJ, CFTC, and SEC. The case has a putative settlement of \$15.7 million.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.
- Court-appointed executive committee member and class counsel in *In re Cattle Antitrust Litigation*, representing cattle producers and cattle futures traders. The suit alleges that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Lead counsel on behalf of a proposed class of Brent crude oil futures traders alleging benchmark manipulation in *In re North Sea Brent Crude Oil Futures Litigation*.
- Representation of exchange-based investors in *Shak v. J.P. Morgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into J.P. Morgan that remains ongoing.

Some of Mr. Elrod's other relevant experience includes:

- Representation of a whistleblower who received the largest-ever individual award (nearly \$200 million) arising under the Dodd-Frank whistleblower reward program after he provided information regarding the manipulation of crucial financial benchmarks used by global banks as the basis for the pricing of fixed income securities and derivative products.
- Representation of a nationwide class of residential mortgage loan borrowers in *Rothstein v. GMAC Mortgage LLC*, a class action alleging violations of the Racketeer Influence and Corrupt Organizations Act. This litigation resulted in a \$13 million settlement against GMAC Mortgage.

- Representation of SEC, CFTC, and FCA whistleblowers who claim that their companies have violated federal law or defrauded the United States Government.

Mr. Elrod is admitted to the New York State Bar, New Jersey State Bar, U.S. District Courts for the Southern and Eastern Districts of New York, U.S. District Court for the District of New Jersey, and U.S. Courts of Appeals for the 2nd, 3rd, 7th, and 9th Circuits. He graduated from the University of Chicago (B.A. 2005) and Boston University School of Law (J.D. 2009).



David A. Bishop is a partner practicing out of our New York office, where he coordinates domestic client and government relations. David Bishop has been a Kirby McInerney partner since 2008. He coordinates domestic client relations for the firm, working with individuals and institutions on securities, corporate governance, and antitrust matters. Mr. Bishop works with institutions on establishing fraud monitoring programs. He has initiated successful litigation on behalf of a credit union damaged by purchasing built-to-fail credit default options, securities investors harmed by a pharmaceutical company's misrepresentations regarding a drug's viability, and purchasers of financial instruments who were struggling in a manipulated market. He successfully argued an appeal that brought accountability to the board of a large international bank that engaged in systematic illegal money laundering.

Prior to joining the firm, he was a legislator elected in Suffolk County, New York, where he wrote laws reducing pesticide use, addressing water pollution from storm water runoff, increasing childcare, and establishing a living wage.

Some of Mr. Bishop's relevant experience includes:

- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into JPMorgan that remains ongoing.
- Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries, alleging that HSBC ran money laundering operations out of New York City. The litigation settled for \$72.5 million, the then largest foreign derivatives settlement ever reached and one of the largest insurer-funded cash payments achieved in a U.S. derivatives lawsuit.
- Representation in a class action on behalf of homeowners in minority neighborhoods in Nassau County concerning the County's unfair assessment practices.

Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage-related losses. During the class period, the company's stock fell from approximately \$37 to \$6. This case resulted in a settlement of \$168 million.

- Lead counsel for classes of consumers harmed by price fixing in the LCD flat panel and SRAM markets.
- Co-lead counsel for a class of investors in Goldman Sachs common stock in a securities class action, *Lapin v. Goldman Sachs Group, Inc.*, pertaining to Goldman's alleged instruction to their research analysts to favor procurement of investment banking deals over accuracy in their research. This litigation resulted in a recovery of \$29 million for the class.

Mr. Bishop is admitted to the New York State Bar and U.S. District Court for the Southern and Eastern Districts of New York. He graduated from American University (B.A. 1987) and Fordham University Law School (J.D. 1993).



Anthony F. Fata is a partner based in our Chicago office. For more than 20 years, Mr. Fata has represented clients in complex financial matters, including claims arising under the commodity, securities, antitrust, and whistleblower laws. Mr. Fata has regularly appeared before federal and state courts throughout the United States and in regulatory matters overseen by the Securities and Exchange Commission, Commodity Futures Trading Commission, Financial Industry Regulatory Authority, Chicago Mercantile Exchange, and other governmental and self-regulatory agencies. Mr. Fata has developed and litigated numerous proprietary cases and served in leadership positions.

Prior to joining KM, Mr. Fata practiced at McDermott, Will & Emery LLP, where he defended SEC enforcement matters, securities class actions, shareholder derivative suits, and consumer class actions. He then joined Cafferty Clobes Meriwether & Sprengel LLP to lead the firm's efforts in commodity manipulation matters.

In addition to his law practice, since 2016, Mr. Fata has been an adjunct professor at Seton Hall University School of Law. He teaches J.D., M.S.J., and LL.M candidates in a wide range of financial services courses, including Securities Regulation, Regulating Broker Dealers, Regulating Funds and Advisors, Corporate Finance, Corporate Governance, Financial Crimes Compliance, Regulating Depository Institutions, Financial Privacy, and Corporate Law.

Mr. Fata is active in the Chicago Bar Association, where he serves on the Board of Managers, Co-Chairs the Securities Law Committee and serves on the Editorial Board of the CBA Record. Mr. Fata is also a recurring panelist for the Practising Law Institute Internal Investigations Seminar conducted in Chicago

each year.

Some of Mr. Fata's commodities experience includes:

- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into JPMorgan that remains ongoing.
- *In re Cattle Antitrust Litigation*, No. 19-cv-1222 (D. Minn.): Mr. Fata led efforts to develop this proprietary case on behalf of cattle producers and cattle futures traders. Mr. Fata continues to serve in a leadership capacity on behalf of live cattle futures traders. The suit alleges that the “Big 4” meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- *Dennis v. The Andersons, Inc. et al.*, No. 20-cv-04090 (N.D. of Ill.): Co-lead counsel of a putative class of exchange-based investors alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws. Mr. Fata has led all phases of this litigation.
- *Dufoe v. DraftKings Inc., et al.*, 1:23-cv-10524 (D. Mass.). Counsel to a class of investors that purchased non-fungible tokens (NFTs) from DraftKings Inc., which operates as a daily fantasy sports contest and sports betting company. The case alleges that DraftKings sold unregistered securities and ensured that money stayed on DraftKings’ private and exclusively controlled marketplace, propping up the market for an overall valuation of DraftKings’ NFTs and significantly harming investors.
- *In re Deutsche Bank Spoofing Litigation*, No. 20-cv-03638 (N.D. of Ill.): Co-lead counsel on behalf of a putative class of investors alleging manipulation through “spoofing” of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange. Mr. Fata has led all phases of this litigation.
- *In re Bank of Nova Scotia Spoofing Litigation*, No. 20-cv-11059 (D.N.J.). As a court-appointed Executive Committee member, Mr. Fata has served in a leadership capacity in this suit alleging that defendants manipulated precious metals futures traded on the New York Mercantile Exchange and the Commodity Exchange, Inc.
- *Hershey v. Pacific Investment Management Company LLC*, No. 05-cv-4681 (N.D. Ill.). Mr. Fata served as local counsel and assisted lead counsel's litigation efforts en route to securing a \$118 million settlement from PIMCO, which was accused of manipulating CBOT treasury note futures.

Some of Mr. Fata's consumer experience includes:

- *Apple Device Performance Litigation*, No. 18-md-02827 (N.D. Cal.). Mr. Fata was appointed as

an executive committee member and co-chair of the damages and settlement committee. The case alleges that Apple throttled iPhones to obscure battery issues. The settlement in the case -- in excess of \$310 million -- was approved by the district court and is awaiting review by the Ninth Circuit.

- *Apple iPhone Warranty Litigation*, No. 10-cv-01610 (N.D. Cal.) Mr. Fata developed and filed the first complaint in this proprietary case alleging that Apple breached its warranty to iPhone customers by denying claims based on a pretext of water damage purportedly shown by “liquid contact indicators.” After similar complaints were filed, Mr. Fata worked cooperatively with other plaintiffs' firms and led efforts to secure a \$53 million global settlement for the class.
- *Apple Gift Card Litigation*, No. 20-cv-04812 (N.D. Cal.). Serving as co-lead counsel to a class of consumers who were victims of gift-card scams and from whom Apple allegedly withholds funds. Mr. Fata developed and filed the first complaint in this proprietary case. Drawing on his financial crimes expertise, Mr. Fata developed the factual theories underpinning the case, helped to organize counsel, and led and is currently co-leading efforts on behalf of the class.
- *May v. Google et al.*, 24-cv-01314 (N.D. Cal.). Counsel in a consumer class action alleging that for nearly a decade Google has knowingly kept stolen money from victims of gift card scams who purchased Google Play gift cards.
- *Midway Moving Sales Practices Litigation*, No. 2003-CH-16091 (Cir. Ct. Cook Cty). Mr. Fata developed and filed this proprietary case alleging that a moving company used bait-and-switch estimating practices. He successfully obtained an order certifying the class, and defended it on appeal, *Ramirez v. Midway Moving and Storage, Inc.*, 378 Ill. App. 3d 51, 880 N.E. 2d 653 (Ill. App. 1st Dist. 2007). Following extensive litigation efforts, on the eve of trial, the matter was successfully resolved via a class-wide settlement that returned 100% of claimed damages to customers.
- *eWork Inc. Sales Practices Litigation*, No. 06-cv-00686 (D. Colo.). Mr. Fata developed and filed this proprietary case alleging that an internet job-consultant matchmaker utilized deceptive practices to lure independent consultants to pay for referral services for jobs that did not actually exist. After defeating defendants' motion to dismiss, *Ramirez v. eWork, Inc.*, No. 06-CV-00686, 2007 WL 2746634 (D. Colo. Sept. 18, 2007), and through additional hard-fought litigation, Mr. Fata successfully led settlement efforts that forced the company to turn 100% of its cash and liquid assets over to the aggrieved customers. The company ceased operations shortly thereafter.

Mr. Fata is also advising clients in confidential ongoing whistleblower matters:

- Securities
 - pump and dump manipulation
 - evidence tampering during investigation
 - asset management fees
- Commodities
 - market manipulation

Mr. Fata regularly authors articles concerning corporate finance, financial markets, and class actions, including:

- *Protecting (or Cracking) the Nest Egg: Why Titles and Contracts Matter When Selecting a Financial Professional*, CBA Record (February 2021) (co-authored with Delaney Slater)
- *Whistleblowers Among Us: The New Regulatory and Self-Policing Paradigm*, CBA Record (May 2018) (co-authored with David Kovel);
- *The Blockchain Bandwagon-Cryptocurrency on the Move: Marketplace Overview and Regulatory Developments*, CBA Record (January 2018) (co-authored with Brian O'Connell)
- *Corporate Cons in the 21st Century: Dealing with the Global Employee Fraud Epidemic*, PLI Internal Investigations Handbook (March 2017) (co-authored with Corey M. Martens)
- *Mitigating, Detecting, and Dealing with Employee Fraud - The Problem of the Inside Job*, CBA Record (January 2017) (co-authored with Corey M. Martens)
- *The Investigation is Internal, But Is This Document Privileged? An Overview of Privilege Issues in Internal Investigations*, PLI Internal Investigations Handbook (April 2016)
- *The Securities Exchange Commission's Whistleblower Program*, PLI Internal Investigations Handbook (March 2015)
- *The Commodity Futures Trading Commission's Whistleblower Program*, PLI Internal Investigations Handbook (March 2014)
- *Untangling the Seamless Web: Seven Critical Assumptions When Planning Investigations*, PLI Internal Investigations Handbook (2013)
- *Doomsday Delayed: How the Court's Party Neutral Clarification of Class Certification Standards in Walmart v. Dukes Actually Helps Plaintiffs*, 62 DePaul Law Review 675 (March 2013)

Mr. Fata is admitted to the Illinois State Bar, U.S. District Courts for the Northern District of Illinois, U.S. District Court for the Eastern District of Michigan, U.S. District Court for the District of Colorado, and U.S. Courts of Appeals for the Sixth, Seventh, and Ninth Circuits. He graduated from Miami University (B.A. 1995) and Ohio State University Moritz College of Law (J.D. 1999).



Randall M. Fox is a partner in our New York office who represents whistleblowers in False Claims Act and IRS, SEC, and CFTC matters about tax, healthcare, procurement, and investment frauds. He was named the Whistleblower Lawyer of the Year for 2021 by The Anti-Fraud Coalition.

Before representing whistleblowers, Mr. Fox served as a government lawyer handling cases filed by whistleblowers alleging frauds committed against public monies. He was the founding Bureau Chief of New York Attorney General's Taxpayer Protection Bureau and, before that, was part of the Attorney General's Medicaid Fraud Control Unit. At the government, he played a key role in several ground-breaking False Claims Act cases, including leading the state's investigation and intervention into a tax whistleblower case against cell phone giant Sprint Corporation, which later settled for \$330 million, and he filed the States' first government-initiated New York False Claims Act case, which recovered more than \$61 million for the New York Medicaid program from pharmaceuticals giant Merck, which was alleged to have falsely marketed its drug Vioxx.

In private practice, Mr. Fox has successfully represented whistleblowers in cases about a wide range of industries. He represented the whistleblower in New York's largest income tax *qui tam* case, which resulted in a \$105 million settlement with a hedge fund billionaire claimed to have disguised the New York source of his income. The whistleblower award was \$22.05 million.

Before his government service, Mr. Fox was a litigation partner at the law firm of LeBoeuf, Lamb, Greene & MacRae, LLP, where his practice focused on defending corporate clients in class actions, commercial disputes, and securities and consumer fraud actions.

Some of Mr. Fox's experience includes:

- Represented the whistleblower in *New York ex rel Tooley LLC v. Sandell*, a New York False Claims Act *qui tam* case against a hedge fund owner for evading New York taxes on about \$475 million in deferred compensation. The case resulted in a \$105 million settlement with a 21% whistleblower award.
- Represented the whistleblower in the healthcare kickbacks case of *New York State ex rel. WB Bros LLC v. Toobian*, where the government intervened in the case and is pursuing criminal kickback charges against radiology businesses and their owner.
- Represented the whistleblower in *United States ex rel. Doe v. FPR Specialty Pharmacy*, a federal False Claims Act *qui tam* case against compounding pharmacy and its owners alleging kickbacks to doctors, independent sales representatives, and patients in the sale of pain creams. The case settled for all of the defendants' limited assets, with a 21% whistleblower award.
- Represented the whistleblower in *New York ex. rel. Raw Data Analytics, LLC v. J.P. Morgan Chase*, a case that established the broad scope of obligations subject to whistleblower claims under the New York False Claims Act.

- Represented the whistleblower in *New York ex rel. Choe v. Spa Castle, Inc.*, a New York False Claims Act case resulting in a civil settlement with a 23% whistleblower award and the criminal conviction of defendants for tax evasions that had been previously unknown to the government.

Mr. Fox is admitted to the New York State Bar, U.S. District Courts for the Southern, Eastern, Western, and Northern Districts of New York, U.S. Courts of Appeals for the Second, Third, Eighth, and Ninth Circuits, and U.S. Tax Court. He graduated from Williams College (B.A. 1988) and New York University (J.D. 1991).



Robert J. Gralewski, Jr. is a partner based in San Diego and manages our California office. Mr. Gralewski has dedicated his entire 24-year legal career to obtaining economic justice for businesses and consumers victimized by price fixing, monopolistic practices, consumer fraud, privacy violations, and unfair employment practices. He has successfully prosecuted a wide variety of federal and state court class actions against multinational conglomerates and Fortune 500 companies in industries including technology, food, automotive, consumer services, and healthcare, including at trial.

Mr. Gralewski has significant experience deposing CEOs, presidents, and other senior executives in high-stakes litigation, including in foreign languages. For example, Mr. Gralewski has first-chaired apex depositions of Samsung, StarKist, and Foster Farms executives in the *In re Cathode Ray Tube (CRT) Antitrust Litigation*, the *In re Packaged Seafood Products Antitrust Litigation*, and the *In re Broiler Chicken Antitrust Litigation* matters, respectively.

In addition to his class cases, Mr. Gralewski maintains an active pro bono practice. Working with Casa Cornelia since 2018, he has succeeded in helping four separate refugees obtain asylum after direct examinations in contested administrative proceedings. In recognition of his dedication and accomplishments, Casa Cornelia awarded Mr. Gralewski its Pro Bono Publico Award in 2019. He is also helped establish COSAL's (The Committee to Support the Antitrust Laws) Diversity, Equity, and Inclusion Committee on which he previously served.

Mr. Gralewski was drafted by the Cincinnati Reds after his senior year in high school but elected to attend college instead.

Some of Mr. Gralewski's experience includes:

- Ongoing representation of a proposed class of Division I college coaches whose wages were illegally fixed at \$0 in *Colon v. National Collegiate Athletic Association*. Recently, the federal judge overseeing the case overruled the NCAA's motion to dismiss the case. The litigation seeks to recover years of back wages on behalf of thousands of hard-working employees who were not paid due to a conspiracy among the NCAA and its member schools.

- Mr. Gralewski leads the KM team as one of the core firms in *In re Cathode Ray Tube (CRT) Antitrust Litigation*, an indirect purchaser antitrust case against some of the largest electronics manufacturers in the world. The case has resulted in settlements on behalf of end payers exceeding \$575 million, and the firm continues to pursue one remaining defendant with a trial set to commence in early 2024. The Special Master in the CRT litigation noted that, "Kirby played an integral role in this case and assumed significant risk. Kirby's work was at a very high level [and] Kirby's work greatly benefitted the Class."
- Representation of a class of purchasers in *In re: Hard Disk Drive Suspension Assemblies Antitrust Litigation*, a case alleging that defendants fixed the prices of suspension assemblies (a critical component of hard disk drives) which artificially increased the prices of computers throughout the U.S. Through the course of his work on the case, Mr. Gralewski has taken several foreign-language depositions of high-level witnesses in Thailand.
- Serving as counsel on behalf of a certified class of restaurants and other commercial and institutional businesses in *In re Broiler Chicken Antitrust Litigation*, a case alleging that numerous poultry producers, such as Tyson and Perdue Farms, conspired to limit production and increase the price of broiler chickens, one of the most common menu items everywhere.
- One of the core firms representing a certified class of everyday-consumers in *In re Packaged Seafood Products Antitrust Litigation*. This case alleges that StarKist, Bumble Bee, Chicken of the Sea, and their parent companies, conspired to fix the price of packaged tuna. StarKist, Bumble Bee and some of their executives have already pleaded guilty, and Bumble Bee's former president was convicted of price fixing by a jury. This case seeks damages for increased prices of this food staple.
- First-chaired numerous arbitration hearings on behalf of employees of a nationwide fast casual chain who were subject to a mandatory arbitration provision. Relying upon JAMS' Employment Arbitration Minimum Standards, he convinced many arbitrators to order broad e-discovery concerning the respondent's practices despite the relatively low-dollar value of the individual proceedings. Ultimately, Mr. Gralewski and KM obtained economic justice for thousands of minimum-wage employees.
- For over a decade, Mr. Gralewski represented classes of businesses and consumers in monopoly cases against Microsoft Corporation in several states and served as consulting and advisory counsel to Canadian lead counsel in a similar Canadian class action. He was an integral member of the trial teams in the Minnesota and Iowa Microsoft class actions which both settled for more than \$350 million after months of hard-fought jury trials. During both trials, Mr. Gralewski was responsible for the evidence and argued evidentiary issues before the trial judges daily. Ultimately, he helped recover more than \$2 billion in the aggregate for businesses and consumers alleged to be overcharged as a result of Microsoft's monopolistic practices.

Mr. Gralewski is admitted to the California State Bar, all of the U.S. District Courts for the State of California, and U.S. District Court for the District of Colorado. He graduated from Princeton University (B.A. 1991) and California Western School of Law (J.D. *cum laude*, 1997).



Karen M. Lerner is a partner in our New York office focused on antitrust and commodities litigation.

Over the course of her career, Ms. Lerner has successfully litigated complex class actions that have recovered billions of dollars on behalf of institutional and individual plaintiffs. She has played important roles in several landmark antitrust cases and remains one of the few women ever appointed as Interim Co-Lead Class Counsel in a Commodity Exchange Act case. In addition to her litigation work, she also advises individuals, corporations and non-profits regarding business practices and corporate governance. In 2022, Ms. Lerner was named a Fellow of the American Bar Foundation, a global honorary society limited to one percent of lawyers licensed to practice in each jurisdiction.

Prior to joining KM, Ms. Lerner was of counsel at McDonough, Korn & Eichhorn, where she handled cases up to and including at trial.

Ms. Lerner is actively involved in promoting volunteerism in the legal community and through women's organizations and is an advocate for diversity and inclusion and is a member of Women Antitrust Plaintiffs' Attorneys (WAPA), an organization for female attorneys who focus their legal practice on representing businesses injured by cartels or other anticompetitive activities. Finally, in addition to her legal practice and activities, Ms. Lerner has served as a member of the Board of Directors for several charitable organizations.

Some of Ms. Lerner's antitrust and commodities experience includes:

- Co-lead counsel in *In re Credit Default Swaps Auctions Litigation*, a class action brought by the firm and the Office of the Attorney General for the State of New Mexico alleging antitrust violations and market manipulation in the credit default swaps market. The case is ongoing.
- Court appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3

billion.

- Counsel in the benchmark antitrust *litigation In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, on behalf of a putative class of gold derivative traders. The case has resulted in settlements of \$152 million.
- Selected by the Court as co-lead counsel in *In re JPMorgan Treasury Futures Spoofing Litigation*, alleging that defendants manipulated U.S. Treasury futures for more than a decade and that this conduct contributed to the bank's recent \$920 million settlement with the DOJ, CFTC, and SEC. The case has a putative settlement of \$15.7 million.
- Court appointed Executive committee member and class counsel in *In re Cattle Antitrust Litigation*, representing cattle producers and cattle futures traders. The suit alleges that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into JPMorgan that remains ongoing.
- Counsel in *In re Deutsche Bank Spoofing Litigation* on behalf of a putative class of investors alleging manipulation through "spoofing" of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Court appointed to the Executive Committee and class counsel in *In re Bank of Nova Scotia Spoofing Litigation*, alleging that defendants manipulated precious metals futures traded on the New York Mercantile Exchange and the Commodity Exchange, Inc.
- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Court appointed Discovery Committee Co-Chair in *In re Effexor XR Antitrust Litigation* for a putative class of direct purchasers of brand name and generic equivalents of extended-release venlafaxine hydrochloride capsules against drug manufacturers. Among the claims, Defendants are alleged to have delayed market entry of generic versions and entered into reverse payment settlements.
- Representation as sole lead counsel in *In re North Sea Brent Crude Oil Futures Litigation*.

Some of Ms. Lerner's other relevant experience includes:

- Representation of a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, No. 103997/2012 (Sup. Ct. N.Y. Cty. and First Dept.), alleging millions of dollars of tax fraud using a sham captive insurance company for over a decade regarding domestic and international

transactions. The litigation settled for \$8.5 million.

- *Maverick v. Valeant Pharmaceuticals International, Inc.*, alleging that Valeant materially misrepresented its business model, touting artificial and unsustainable growth that was enabled by the company's deceptive and illegal conduct.

Ms. Lerner is admitted to the New York State Bar, New Jersey State Bar, District of Columbia Bar, United States Supreme Court, U.S. Court of Appeals for the Second and Third Circuits, U.S. Court of Appeals for the District of Columbia, U.S. District Court for the Southern and Eastern Districts of New York, and U.S. District Court for the District of New Jersey. She graduated from University of Albany SUNY (B.A. 1988, *summa cum laude*, Phi Beta Kappa) and University of Pennsylvania School of Law (J.D. 1991).



Anthony E. Maneiro is a partner practicing out of our Chicago office who concentrates on securities, commodities, and antitrust matters.

Mr. Maneiro was selected for the Federal Bar Council American Inn of Court for the Inn and is a member of the Hispanic National Bar Association and the New York City Bar Association, where he serves on the Antitrust and Trade Regulation Committee. Mr. Maneiro joined the firm in 2016.

Some of Mr. Maneiro's antitrust and commodities experience includes:

- Co-lead counsel in *In re Credit Default Swaps Auctions Litigation*, a class action brought by the firm and the Office of the Attorney General for the State of New Mexico alleging antitrust violations and market manipulation in the credit default swaps market. The case is ongoing.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.
- Counsel in the benchmark antitrust litigation *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, on behalf of a putative class of gold derivative traders. The case has resulted in settlements of \$152 million.
- Selected by the Court as co-lead counsel in *In re JPMorgan Treasury Futures Spoofing Litigation*, alleging that defendants manipulated U.S. Treasury futures for more than a decade

and that this conduct contributed to the bank's recent \$920 million settlement with the DOJ, CFTC, and SEC. The case has a putative settlement of \$15.7 million.

- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into JPMorgan that remains ongoing.
- Court appointed Discovery Committee Co-Chair in *In re Effexor XR Antitrust Litigation* for a putative class of direct purchasers of brand name and generic equivalents of extended-release venlafaxine hydrochloride capsules against drug manufacturers. Among the claims, Defendants are alleged to have delayed market entry of generic versions and entered into reverse payment settlements.
- Court appointed Executive committee member and class counsel in *In re Cattle Antitrust Litigation*, representing cattle producers and cattle futures traders. The suit alleges that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Counsel in *In re Deutsche Bank Spoofing Litigation* on behalf of a putative class of investors alleging manipulation through "spoofing" of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Court appointed to the Executive Committee and class counsel in *In re Bank of Nova Scotia Spoofing Litigation*, alleging that defendants manipulated precious metals futures traded on the New York Mercantile Exchange and the Commodity Exchange, Inc.
- Representation of exchange-based investors in *Anastasio v. Total Gas & Power North America, Inc.*, alleging price manipulation of physical natural gas as well as price manipulation of natural gas futures and other derivative natural gas contracts.

Some of Mr. Maneiro's other relevant experience includes:

- Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries, alleging that HSBC ran money laundering operations out of New York City. The litigation settled for \$72.5 million, the then largest foreign derivatives settlement ever reached and one of the largest insurer-funded cash payments achieved in a U.S. derivatives lawsuit.
- Representation in an individual securities fraud action alleging that in marketing their auto-loan ABS securitizations to investors, TCF Bank and Gateway One materially misrepresented the key metric used by investors to evaluate and price the securitizations' certificates.

- Representation of a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, No. 103997/2012 (Sup. Ct. N.Y. Cty. and First Dept.), alleging millions of dollars of tax fraud using a sham captive insurance company for over a decade regarding domestic and international transactions. The litigation settled for \$8.5 million.

Mr. Maneiro is admitted to the Massachusetts, Illinois and New York State Bars, the U.S. District Court for the District of Massachusetts, the U.S. District Courts for the Eastern and Southern Districts of New York, and the U.S. District Court for the Northern District of Illinois. Mr. Maneiro graduated from Grove City College (B.A. 2010, *magna cum laude*), the London School of Economics and Political Science (M.Sc. 2011), and the Boston University School of Law (J.D. LL.M. 2016).



Andrew M. McNeela is a partner in our New York office focusing on securities, antitrust, commodities, and structured finance litigation. Mr. McNeela joined the firm in 2008.

Prior to joining KM, Mr. McNeela served as an Assistant United States Attorney in the Civil Division of the United States Attorney's Office for the Southern District of New York. In this capacity, he represented the United States in a wide array of civil litigation. Mr. McNeela has argued over twenty cases before the United States Court of Appeals for the Second Circuit.

Some of Mr. McNeela's experience includes:

- Representation of exchange-based investors in *Shak v. JPMorgan Chase & Co.*, alleging monopolization and manipulation of the silver futures market in violation of federal antitrust and commodity exchange laws. The parties successfully reached a private settlement. The case preceded a related Department of Justice criminal investigation into JPMorgan that remains ongoing.
- Lead counsel in a seven-day bench trial in the S.D.N.Y., representing mutual fund investors who alleged that their advisor, Calamos Advisors LLC, charged excessive fees (decision under submission). At the conclusion of trial, the judge praised counsel for "an extraordinarily well-trying case."
- Representation of a Japanese bank that asserted fraud in connection with its purchase of synthetic CDOs from several prominent New York City-based financial institutions, which resulted in favorable confidential settlements.
- Representation of the New York City Pension Funds as lead plaintiff in a class action against Wachovia Corporation arising from Wachovia's alleged misrepresentations of their exposure to the subprime market. This case resulted in a settlement of \$75 million.
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City*

Corporation Securities, Derivative & ERISA Litigation, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. This case resulted in a settlement of \$168 million.

- Lead counsel in *Dandong v. Pinnacle Performance Limited*, a class action lawsuit against Morgan Stanley pertaining to \$154.7 million of notes issued by Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley engineered the Pinnacle notes, which it marketed as a safe investment, to fail, investing money into collateralized debt obligations linked to risky companies, while actively shorting the same assets and betting against their clients. This case settled for \$20 million.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Lead counsel on behalf of a proposed class of Brent crude oil futures traders alleging benchmark manipulation in *In re North Sea Brent Crude Oil Futures Litigation*.
- Lead counsel in the securities class action *In re Herley Industries Inc. Securities Litigation* on behalf of investors. This litigation resulted in a recovery of \$10 million for the class.
- Co-lead counsel for a class of investors in Goldman Sachs common stock in a securities class action, *Lapin v. Goldman Sachs Group, Inc.*, pertaining to Goldman's alleged instruction to their research analysts to favor procurement of investment banking deals over accuracy in their research. This litigation resulted in a recovery of \$29 million for the class.

Mr. McNeela is admitted to the New York State Bar, U.S. District Courts for the Southern and Eastern Districts of New York, and U.S. Court of Appeals for the Second Circuit. He graduated from Washington University (B.A. 1995) and Hofstra University School of Law (J.D. *cum laude*, 1998), where he was a member of the Law Review.



Meghan Summers is a partner based in our New York office focusing on securities, structured finance, and antitrust litigation.

Ms. Summers began working at the firm in 2008 as a paralegal and law clerk before becoming an associate in 2012 and then a partner in 2017.

Some of Ms. Summers' securities and structured finance experience includes:

- Lead counsel representing Wespath, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Counsel in *Maverick Neutral Levered Fund, Ltd. v. Valeant Pharmaceuticals International, Inc.*, alleging that Valeant materially misrepresented its business model, touting artificial and unsustainable growth that was enabled by the company's deceptive and illegal conduct.
- Lead counsel in *Dandong v. Pinnacle Performance Limited*, a class action lawsuit against Morgan Stanley pertaining to \$154.7 million of notes issued by Pinnacle Performance Ltd. Plaintiffs alleged that Morgan Stanley engineered the Pinnacle notes, which it marketed as a safe investment, to fail, investing money into collateralized debt obligations linked to risky companies, while actively shorting the same assets and betting against their clients. This litigation resulted in a \$20 million settlement.
- Representation of foreign financial institutions in individual lawsuits against Morgan Stanley, Credit Agricole Corporate and Investment Bank, UBS, Deutsche Bank, Credit Suisse, Goldman Sachs, JP Morgan, and Barclays pertaining to a number of fraudulent structured investment vehicles and asset-backed collateralized debt obligations.
- Lead counsel in *In re MOL Global, Inc. Securities Litigation*, a class action lawsuit alleging that e-payment enabler MOL Global misled shareholders prior to its initial public offering. This litigation resulted in a \$8.5 million settlement.
- Lead counsel in *Rudman v. CHC Group, Ltd.*, a securities class action alleging that CHC Group had misled investors by failing to disclose that one of its two largest customers had stopped making payments on its contracts prior to the company's initial public offering. This litigation resulted in a \$3.85 million settlement.
- Representation in individual securities fraud actions against Merck and Schering-Plough related to the commercial viability of the companies' anti-cholesterol medication, Vytarin, and the subsequent drop in Merck's and Schering-Plough's share price.
- Representation in individual securities fraud actions against Merck related to the safety and commercial viability of its medication, Vioxx, and the subsequent drop in Merck's share price.

- Representation in an individual securities fraud action against BP plc related to the Deepwater Horizon explosion on April 20, 2010, and the subsequent drop in BP's share price.
- Representation in an individual securities fraud action alleging that, in marketing their auto-loan ABS securitizations to investors, TCF Bank and Gateway One materially misrepresented the key metric used by investors to evaluate and price the securitizations' certificates.
- Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries, alleging that HSBC ran money laundering operations out of New York City. The litigation settled for \$72.5 million, the then largest foreign derivatives settlement ever reached and one of the largest insurer-funded cash payments achieved in a U.S. derivatives lawsuit.

Some of Ms. Summers' antitrust experience includes:

- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the foreign exchange market. This litigation has already resulted in partial settlements of more than \$2.3 billion.
- Representation in individual lawsuits against Citibank, JPMorgan, Goldman Sachs, and Barclays, alleging that the banks colluded to prevent a patented method for structuring airline special facility revenue bonds from entering the airline municipal bond market in violation of New York's Donnelly Act.
- Consulting and advisory counsel to Canadian lead counsel in an antitrust case against Microsoft. This litigation resulted in a settlement of \$395 million.

As a law clerk, Ms. Summers worked on a variety of matters, including *In re Citigroup Inc. Securities Litigation*, *In re Wachovia Corporation*, *In re Libor-Based Financial Instruments Antitrust Litigation*, *In re AT&T Wireless Tracking Stock Securities Litigation*, *Dandong v. Pinnacle Performance Limited*, and private antitrust proceedings against Microsoft in the United States and Canada.

Ms. Summers is admitted to the New York State Bar, U.S. District Court for the Southern and Eastern Districts of New York, U.S. District Court for the District of Colorado, U.S. Court of Appeals for the Second and Third Circuits. She graduated from Cornell University (B.S. *summa cum laude*, 2008), where she was ranked first in her major, Pace University School of Law (J.D. *summa cum laude*, 2012), where she was Salutatorian and Articles Editor for the Pace Law Review, and King's College, London (Postgraduate Diploma with Merit, EU Competition Law, 2019).



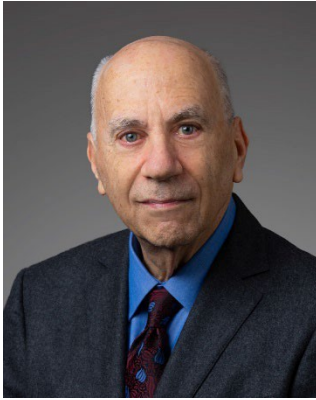
Karina Kosharskyy is Of Counsel to the firm. She is based in our New York office and focuses on securities and antitrust litigation. Ms. Kosharskyy joined the firm in 2005.

Ms. Kosharskyy is fluent in Russian.

Some of Ms. Kosharskyy's relevant work includes:

- Lead counsel for consumer classes in connection with antitrust proceedings against Microsoft in the United States and consulting and advisory counsel to Canadian lead counsel in Canada. These litigations have resulted in settlements totaling over \$1 billion for consumers in Canada, Florida, New York, Tennessee, West Virginia and Minnesota, where the litigation proceeded to trial.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Representation of indirect purchasers in *In re Cathode Ray Tube (CRT) Antitrust Litigation*, a price fixing anti-trust case wherein it is alleged that defendant entities conspired to control prices of television and monitor components resulting in a settlement of \$576 million.

Ms. Kosharskyy is admitted to the New York and New Jersey State Bars, the U.S. District Courts for the Southern and Eastern Districts of New York, and the U.S. District Court for the District of New Jersey. Ms. Kosharskyy graduated from Boston University (B.A. 2000) and the New York Law School (J.D. 2007).



John Low-Beer is Of Counsel to the firm and focuses on whistleblower litigation.

Mr. Low-Beer has represented plaintiffs in class actions and whistleblower litigation including *Tyngsboro Sports II Solar, LLC v. Nat'l Grid USA Services Co.*, Case No. 1:22-cv-11791 (D. Mass.) (ongoing litigation challenging fees on independent solar generation), and *Anonymous, et ano. v. Moody's Corporation, et al.*, No. 103997/2012 (Sup. Ct. N.Y. Cty. and First Dept.) (successful claim re taxation of captive insurance company).

He is an Adjunct Professor at Cornell Law School and also has a separate *pro bono* and “low bono” practice, primarily representing community groups and civic organizations in land use cases including *Avella v. City of New York*, 29 N.Y.3d 967 (2017) (invalidating a plan to build a shopping mall on parkland in Queens), *Howard v. 1919 Bedford Realty, LLC*, Index No. 507391/2022 (upholding covenant protecting National Register property in Lefferts Manor, Brooklyn), and *Peyton v. New York City Board of Standards and Appeals*, 36 N.Y.3d 271 (2020) (4-3 decision reversing 1st Dept.’s holding that rooftop garden of a luxury building in Manhattan could not be counted as “open space” within the meaning of the Zoning Resolution).

Mr. Low-Beer was formerly a Senior Counsel in the Affirmative Litigation Division of the NYC Law Department, where he was lead attorney on complex and highly publicized matters, including litigation concerning City taxation of consular and U.N. mission staff housing, a successful challenge to New York State’s misallocation of \$750 million in federal stimulus funding, a lawsuit forcing the Governor to implement State takeover of \$2.5 billion in City debt, and cases against more than 40 pharmaceutical companies recovering \$240 million.

Mr. Low-Beer has a B.A. from Brown University, a Ph.D. from Harvard University, and a J.D. from Yale Law School. He clerked for Judge Leonard Garth on the U.S. Court of Appeals for the Third Circuit. Previous to that, he was Associate Professor at York College, CUNY, and Assistant Professor at Yale School of Management and Department of Sociology. He is the author of a book, Protest and Participation (Cambridge University Press 1978), a prize-winning note in the Yale L.J., “The Constitutional Imperative of Proportional Representation,” and numerous articles, including “Why Community Groups Can Never Win Against Developers,” NYLJ Sept. 19, 2019.



Alice McInerney is Of Counsel to the firm and practices out of our New York office. She concentrates on antitrust and consumer matters, and also handles securities class actions. Ms. McInerney joined the firm in 1995 and has over 30 years of experience as an attorney.

Prior to joining KM, Ms. McInerney was Chief of the Investor Protection Bureau and Deputy Chief of the Antitrust Bureau of the New York Attorney General's office. While there, she chaired the Enforcement Section of the North American Securities Administrators Association and also chaired the Multi-State Task Force on Investigations for the National Association of Attorneys General. Alice is also a member of the National Association of Public Pension Attorneys (NAPPA).

Some of Ms. McInerney's relevant work includes:

- Lead counsel for consumer classes in antitrust cases against Microsoft. These litigations resulted in settlements totaling over \$1 billion dollars for consumers in Florida, New York, Tennessee, West Virginia and Minnesota.
- Representation of a class of retailers in *In re Visa Check/MasterMoney Antitrust Litigation*, an antitrust case which resulted in a settlement of over \$3 billion for the class.
- Representation of public entities in connection with ongoing Medicaid fraud and False Claims Act litigations arising from health expenditures of these state and local governmental entities.
- Representation of California homeowners in litigation arising from mortgage repayment irregularities. This litigation resulted in settlements that afforded millions of California homeowners clear title to their property. The cases resulted in the notable decision *Bartold v. Glendale Federal Bank*.

Ms. McInerney is admitted to the New York State Bar, the U.S. Supreme Court, the U.S. Court of Appeals for the Second Circuit, and the U.S. District Courts for the Eastern, Northern, Southern, and Western Districts of New York. Ms. McInerney graduated from Smith College (B.A. 1970) and Hofstra School of Law (J.D. 1976).



Beverly Mirza is Of Counsel to the firm and practices out of our New York office, concentrating on antitrust and securities litigation.

Ms. Mirza joined the firm in 2004.

Some of Ms. Mirza's relevant experience includes:

- Representation of a class of consumers in connection with *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions*. This case involves Unocal's manipulation of the standard-setting process for low-emissions reformulated gasoline in California, which increased retail prices of reformulated gasoline. This litigation resulted in a \$48 million recovery for the class.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Representation, as one of the firms with primary responsibility for the case, of a class of purchasers of computers containing Intel's microprocessor chips in Coordination Proceedings Special Title, Intel x86 Microprocessor Cases.
- Representation, as executive committee member, of a class of retailers in *In re Chocolate Confectionary Antitrust Litigation*, alleging price fixing claims against a group of chocolate manufacturers in the United States and abroad.
- Representation of a class of sellers in *In re Ebay Seller Antitrust Litigation*, alleging monopolization claims against Ebay.
- Representation of an objector to the settlement in *Reynolds v. Beneficial National Bank* in the United States Northern District Court for the District of Illinois. Ms. Mirza and KM were lauded by the presiding judge for their "intelligence and hard work," and for obtaining "an excellent result for the class."

Ms. Mirza is admitted to the California State Bar and the U.S. District Courts for the Northern and Central Districts of California. She graduated from California State University of Los Angeles (B.S. *magna cum laude*, 2000) and California Western School of Law (J.D. 2004).



Sawa Nagano is Of Counsel to the firm. She focuses on the representation of clients in relation to price-fixing litigation under the Sherman Antitrust Act and other federal and state laws to recover overcharges caused by international price-fixing cartels. Ms. Nagano joined the firm in 2013.

Prior to joining KM, Ms. Nagano worked with the law firms of both Orrick, Herrington, and Sutcliffe LLP and Crowell and Morning LLP, where she assisted in the investigation of conspiracies to engage in price-fixing and anticompetitive practices by manufacturers and multinational conglomerates, and she represented cable operators on matters arising before the Federal Communications Commission as well as in their relations with local and state franchising authorities. She also worked for the New York bureau of a major Japanese television network. Additionally, she interned with the Office of Commissioner Furchtgott-Roth at the Federal Communications Commission and worked as a student counsel at the Art, Sports and Entertainment Law Clinic of the Dickinson School of Law of the Pennsylvania State University.

Some of Ms. Nagano's experience includes:

- Representation of a class of purchasers in *In re: Hard Disk Drive Suspension Assemblies Antitrust Litigation*, a case alleging that defendants fixed the prices of suspension assemblies (a critical component of hard disk drives) which artificially increased the prices of computers throughout the U.S.
- Representation of an end-user class of businesses and consumers in connection with *In re Cathode Ray Tube (CRT) Antitrust Litigation*. In this case, the manufacturers of cathode ray tubes conspired to fix, raise, maintain and/or stabilize prices. Because of Defendants' alleged unlawful conduct, Plaintiffs and other Class Members paid artificially inflated prices for CRT Products and have suffered financial harm.
- Court appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.
- Representation of a whistleblower who alleges that waste-to-energy plant operator Covanta violated environmental regulations by creating hazardous ash as a by-product of the burning of garbage from multiple Long Island towns in *State of New York v. Covanta Hempstead Company et al.* The case has been brought on behalf of New York State, certain local governments on Long Island, and the Long Island Power Authority (LIPA). Over the course of a decade, these local governments paid \$890 million to Covanta to take their communities' garbage in an environmentally safe way. As alleged, Covanta did not, in fact, abide by the necessary protocols to keep the ash that was dumped in the Brookhaven landfill from being hazardous.
- Obtained an \$8.5 million award – the largest-ever settlement in a declined New York State False Claims Act case – for a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, a

groundbreaking case against Moody's and others under the New York State False Claims Act. The litigation brought to light a multi-year, multi-million-dollar tax fraud scheme executed by Moody's and its consultants wherein the company repeatedly underpaid city and state taxes by maintaining a sham insurance corporation as a subsidiary. The KM team was successful both before the trial court as well as on appeal before the New York City First Department.

- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a “futures only” settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.

Ms. Nagano graduated from Sophia University, Tokyo, Japan (B.A. 1989), New York University (M.A. 1992), and The Dickinson School of Law of the Pennsylvania State University (J.D. 2000).



TL Popejoy is Of Counsel to the firm and practices out of our New York office. He focuses on antitrust, whistleblower, derivative, and securities litigation involving complex financial products. Mr. Popejoy joined the firm in 2020.

Prior to joining KM, Mr. Popejoy practiced as an attorney at Quinn Emanuel Urquhart & Sullivan, LLP and a startup litigation boutique, where he worked on high-profile cases involving complex financial products in large antitrust class actions, contract disputes, and numerous FINRA and SEC investigations.

He has also represented pro bono low-income tenants in New York City, as well as New York City public school students in suspension hearings.

Before law school, Mr. Popejoy was a Director in algorithmic trading at Credit Suisse and RBC Capital Markets. He is co-inventor of a patent with the founders of the IEX stock exchange that protects institutional investors from high frequency trading arbitrage, and he has argued successfully before the U.S. Patent and Trademark Office.

Mr. Popejoy is the author of *The Invention of Potential Life: The Police Power over Women in Reproductive Rights Jurisprudence*, a law review article published during Mr. Popejoy's time in law school by the *Women's Rights Law Reporter*, a review founded by the late U.S. Supreme Court Justice Ruth Bader Ginsburg. See 37 *Women's Rights Law Reporter* 83 (Fall 2015).

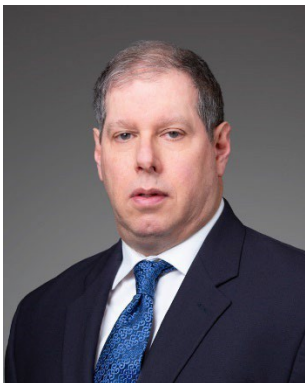
Some of Mr. Popejoy's experience includes:

- Lead counsel on behalf of the New Mexico Attorney General's Office and the New Mexico State Investment Council in *In re Credit Default Swaps Auctions Litigation* alleging that leading credit default swap (CDS) dealers took part in a more than decade-long, multibillion-dollar scheme to manipulate the benchmark prices used to value credit default swap contracts at settlement.

Some of Mr. Popejoy's experience at his prior firms includes:

- *In re European Government Bonds Antitrust Litigation; In re Chicago Board Options Exchange Volatility Index Manipulation Antitrust Litigation*, a class action concerning settlement of the VIX "fear index;"
- *Iowa Public Employees' Retirement System v. Bank of America Corporation*, a class action concerning collusive behavior in the stock loan industry;
- *In re Interest Rate Swaps Antitrust Litigation; Alaska Electrical Pension Fund v. Bank Of America Corporation*, a class action concerning price manipulation of the ISDAfix benchmark;
- *In re Treasury Securities Auction Antitrust Litigation; Scott v. AT&T Inc.*, involving the sale of customer "geolocation" information; and
- *Williams v. AT&T Mobility LLC*, representing a victim of "SIM swapping" in a case involving cryptocurrency.

Mr. Popejoy is admitted to the New York State Bar and the U.S. District Court for the Southern and Eastern Districts of New York. He graduated from Amherst College (B.A. *summa cum laude*), Johns Hopkins University (M.A. Ph.D.), and City University of New York School of Law (J.D.).



Ira M. Press is Of Counsel to our New York office. Mr. Press's practice focuses on securities and consumer litigation. He joined the firm in 1993, and currently leads the firm's institutional investor monitoring program. In this capacity, he has provided advisory services to numerous government pension funds and other institutional investors. He has authored articles on securities law topics and has lectured to audiences of attorneys, experts and institutional investor fiduciaries.

Mr. Press's advocacy has resulted in several landmark appellate decisions, including *Rothman v. Gregor*, the first ever appellate reversal of a lower court's dismissal of a securities class action suit pursuant to the 1995 Private Securities Litigation Reform Act.

Prior to joining KM, Mr. Press practiced at Warshaw Burstein Cohen Schlesinger & Kuh, LLP, where he focused on commercial litigation.

Some of Mr. Press's relevant experience includes:

- Lead counsel representing Wespath, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Co-lead counsel in *Kokareva v. Bristow Group Inc.*, a securities class action alleging that an aviation services provider focused on the oil and gas sector, made materially false and misleading statements about its internal controls relating to covenants in the company's secured financing agreements. The case resulted in a \$6.25 million settlement that has received final approval.
- Counsel in *Maverick Neutral Levered Fund, Ltd. v. Valeant Pharmaceuticals International, Inc.*, alleging that Valeant materially misrepresented its business model, touting artificial and unsustainable growth that was enabled by the company's deceptive and illegal conduct.
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. During the class period, the company's stock fell from approximately \$37 to \$6. This case resulted a settlement of \$168 million.
- Representation of the New York City Pension Funds as lead plaintiff in a class action against Wachovia Corporation arising from Wachovia's alleged misrepresentations of their exposure to the subprime market. This case resulted in a settlement of \$75 million.
- Lead counsel in *In re Citigroup Inc Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million.

Mr. Press is admitted to the New York State Bar, U.S. District Courts for the Eastern, Northern and Southern Districts of New York, U.S. District Court for the District of Colorado, and the U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Circuits. He graduated from Yeshiva University (B.A. *magna cum laude*, 1986) and New York University Law School (J.D. 1989).



Henry Telias is Of Counsel to the firm and practices out of our New York office, specializing in accountants' liability and securities litigation. Mr. Telias joined the firm in 1997.

In addition to his legal work, Mr. Telias is also the firm's chief forensic accountant. He holds the CFF credential (Certified in Financial Forensics) and the PFS credential (Personal Financial Specialist) from the American Institute of Certified Public Accountants. He received his CPA license from New York State in 1982. Prior to practicing as an attorney, he practiced exclusively as a certified public accountant from 1982 to 1989, including 3 years in the audit and tax departments of Deloitte Haskins & Sells' New York office.

Some of Mr. Telias' relevant experience includes:

- Lead counsel in *In re Citigroup Inc. Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case recently settled for \$590 million.
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. This case resulted in a settlement of \$168 million.
- Representation of the New York City Pension Funds as lead plaintiff in a class action against Wachovia Corporation arising from Wachovia's alleged misrepresentations of their exposure to the subprime market. This case resulted in a settlement of \$75 million.
- Lead counsel for a certified class of purchasers of PRIDES securities in connection with the Cendant Corporation accounting fraud in *In re Cendant Corporation PRIDES Litigation*. This litigation resulted in an approximate \$350 million settlement for the certified class – an unprecedented 100 percent recovery.

Mr. Telias is admitted to the New York State Bar and the U.S. District Court for the Southern District of New York. He graduated from Brooklyn College (B.S. *cum laude*, 1980) and Hofstra University School of Law (J.D. 1989).



Edward M. Varga, III is Of Counsel to the firm and practices out of our New York office. Mr. Varga joined the firm in 2006 and concentrates on securities and antitrust litigation.

Mr. Varga's relevant experience includes:

- Lead counsel in *In re Citigroup Inc Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million.
- Representation, as counsel for lead plaintiff and other shareholders, in a derivative action brought against members of the Board of Directors and senior executives of Pfizer, Inc. Plaintiffs made a breach of fiduciary duty claim because defendants allegedly allowed unlawful promotion of drugs to continue even after receiving numerous "red flags" that the improper drug marketing was systemic. Pfizer agreed to pay a proposed settlement of \$75 million and to make groundbreaking changes to the Board's oversight of regulatory matters.
- Lead counsel for a group of Singapore-based investors in a securities class action against Morgan Stanley pertaining to notes issued by Cayman Islands-registered Pinnacle Performance Ltd. Plaintiffs allege that Morgan Stanley routed Pinnacle investors' principal into synthetic collateralized debt obligations (CDOs) that it built to fail and then bet against. As the CDOs failed by design, plaintiffs' principal was swapped to Morgan Stanley, enriching Morgan Stanley while rendering the Pinnacle Notes an all-but-total loss. This case settled for \$20 million.
- Representation of companies that offered IPO securities in antitrust litigation against the 27 largest investment banks in the United States. Plaintiffs allege that the banks conspired to price fix underwriting fees in the mid-sized IPO market.
- Representation of the NY State Common Retirement Fund as lead plaintiff in *In re National City Corporation Securities, Derivative & ERISA Litigation*, a securities class action arising from National City's alleged misrepresentations regarding exposure to subprime mortgage related losses. This case settled for \$168 million.

Mr. Varga is admitted to the New York State Bar. He graduated from Cornell University (B.S. 2000) and New York University Law School (J.D. 2006).



Sarah Flohr is an associate practicing out of our New York office where she focuses on antitrust, consumer fraud, and securities fraud litigation. Ms. Flohr also works with attorneys in our Chicago office representing clients in Illinois courts.

Ms. Flohr has extensive experience in all stages of litigation, including drafting motions and pleadings, discovery requests, arguing motions, conducting trials, negotiating settlements, and taking fact and expert depositions. Prior to joining KM, she worked as an associate in Chicago practicing in mass tort litigation.

During this time, she played an integral role on numerous teams representing Fortune 500 companies throughout the country. Ms. Flohr drafted and won two motions to exclude experts, resulting in summary judgment being granted on all counts brought against her firm's client in a multi-million-dollar product liability and breach of contract case, which was upheld on appeal by the United States Circuit Court of Appeals for the Second Circuit.

Some of Ms. Flohr's work includes:

- Lead counsel to a class of small package delivery companies in *Fli-Lo Falcon Llc v. Amazon.Com Inc.*, et al., who were defrauded by Amazon under its Delivery Service Partners (DSP) Program. The case alleges that the DSP program represents an unlawful scheme to shield Amazon from its responsibilities to DSPs, their drivers, and the public; minimize the risk of unionization among drivers; foist costs that Amazon would otherwise bear as an employer of drivers onto DSPs despite the fact that the drivers are functionally Amazon employees; and limit Amazon's delivery costs by imposing policies and rules intended to prevent DSPs from achieving performance-related payments.
- Counsel in *May v. Google et al.*, a consumer class action alleging that for nearly a decade Google has knowingly kept stolen money from victims of gift card scams who purchased Google Play gift cards.
- Co-lead counsel in *Macovski v. Groupon Inc. et al.*, a securities class action alleging that the company made materially false and misleading statements and failed to disclose to investors its financial health before ending its sale of physical goods and announcing the departure of two top executives. The case resulted in a \$13.5 million settlement that has received final approval.
- Lead counsel representing Wespeth, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Co-lead counsel in *Apple Gift Card Litigation*, representing a class of consumers who were

victims of gift-card scams and from whom Apple allegedly withholds funds.

- Counsel in *Maverick Neutral Levered Fund, Ltd. v. Valeant Pharmaceuticals International, Inc.*, alleging that Valeant materially misrepresented its business model, touting artificial and unsustainable growth that was enabled by the company's deceptive and illegal conduct.

Ms. Flohr is admitted to the New York State Bar, Illinois State Bar, Missouri State Bar, and the U.S. District Courts for the Eastern and Southern Districts of New York and the Northern District of Illinois. She graduated from Indiana University (B.A. 2008) University of Illinois Chicago School of Law (J.D. 2014).



Faisal Haider is an associate practicing out of our New York office. Prior to joining KM, Mr. Haider served as a Pro Bono Law Clerk to the Honorable Zahid N. Quraishi of the U.S. District Court for the District of New Jersey. During law school, Mr. Haider worked as a Summer Honors Program legal intern at the U.S. Securities and Exchange Commission's Division of Investment Management and as a Research Assistant to Professor Morgan Ricks of Vanderbilt University Law School.

Some of Mr. Haider's work includes:

- Representation of a family office as plaintiff in *The Stone Family Trust v. Credit Suisse AG, et al.*, an opt-out lawsuit from *Chahal v. Credit Suisse Grp. AG, et al.* The cases arise from the collapse, on February 5, 2018, of XIV, an Exchange Traded note issued and underwritten by Credit Suisse designed to replicate the inverse of the daily performance of the S&P 500 VIX Short-Term Futures Index. Defendants had failed to disclose material risks to investing in XIV in its offering documents or public statements, and on February 5, 2018, XIV lost 96% of its value, or approximately \$1.56 billion.
- *Dufoe v. DraftKings Inc., et al*, 1:23-cv-10524 (D. Mass.). Counsel to a class of investors that purchased non-fungible tokens (NFTs) from DraftKings Inc., which operates as a daily fantasy sports contest and sports betting company. The case alleges that DraftKings sold unregistered securities and ensured that money stayed on DraftKings' private and exclusively controlled marketplace, propping up the market for an overall valuation of DraftKings' NFTs and significantly harming investors.
- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Court appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.

- Lead counsel to a class of small package delivery companies in *Fli-Lo Falcon Llc v. Amazon.Com Inc., et al.*, who were defrauded by Amazon under its Delivery Service Partners (DSP) Program. The case alleges that the DSP program represents an unlawful scheme to shield Amazon from its responsibilities to DSPs, their drivers, and the public; minimize the risk of unionization among drivers; foist costs that Amazon would otherwise bear as an employer of drivers onto DSPs despite the fact that the drivers are functionally Amazon employees; and limit Amazon's delivery costs by imposing policies and rules intended to prevent DSPs from achieving performance-related payments.
- Lead counsel representing Wespeth, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.

Mr. Haider is admitted to the New Jersey State Bar. He graduated from New York University (B.A. 2016), Vanderbilt University Law School (J.D. 2021), where he served as the Executive Development Editor of the Vanderbilt Journal of Transnational Law, and from Vanderbilt University Owen Graduate School of Management (M.S. 2021). He additionally is an author of *Chancery Court Refuses to Dismiss Action to Enforce Post-Merger Covenant Due to Ambiguities in Merger Agreement*, 73 Vand. L. Rev. En Banc 27 (2020). Mr. Haider joined the firm in 2022.



James Isacks is a law clerk practicing out of our New York office. His admission is pending before the New York State Bar. Upon admission to the bar, Mr. Isacks will be an associate.

Prior to joining KM, Mr. Isacks was a student attorney at the Washington University School of Law's First Amendment Clinic, where he researched and wrote portions of briefs filed in the Federal District Court and Eighth Circuit Court of Appeals. Additionally, he served as a Judicial Extern at the Equal Employment Opportunity Commission while in law school.

Some of Mr. Isacks' work includes:

- Court appointed Executive Committee member and class counsel representing cattle producers and cattle futures traders in *In re Cattle Antitrust Litigation*. The suit alleges that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Court appointed Executive committee member and class counsel in *In re Digital Advertising*

Antitrust Litigation, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.

- Counsel in *In re Deutsche Bank Spoofing Litigation* on behalf of a putative class of investors alleging manipulation through “spoofing” of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.

Mr. Isacks graduated from Louisiana State University, (B.A. 2019) and Washington University in St. Louis School of Law (J.D. 2022). During law school, he served as the Executive Notes Editor of Washington University's Journal of Law and Policy and authored Deepwater Horizon JO Years Later: Regulations, Rollbacks, and Where We Go from Here, 69 Wash. U. J. L. & POL'Y 1 (2022). Mr. Isacks joined the firm in 2022.



Rohan Kulkarni is an associate practicing out of our New York office. During law school, Mr. Kulkarni worked as a law clerk for Barrows Levy PLLC and Essex-Newark Legal Services. As a law clerk, he assisted clients in all aspects of commercial litigation, drafted pleadings filed in federal and state courts, and conducted legal research.

Some of Mr. Kulkarni's work includes:

- Lead counsel representing Wespeth, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. The case has resulted in a \$45 million settlement.
- Court appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.

Mr. Kulkarni is also working on confidential ongoing whistleblower matters:

- Securities/Cryptocurrencies
 - market manipulation
 - money laundering

- insider trading

Mr. Kulkarni is admitted to the New York State Bar. He graduated from Rutgers University (B.S. 2018), the Maurice A. Deane School of Law at Hofstra University (J.D. 2022), and Frank G. Zarb School of Business at Hofstra University (M.B.A. 2022).



Lauren Molinaro is an associate practicing out of our New York office. Prior to joining KM, Ms. Molinaro was an associate at a major New York plaintiffs' firm, where her practice focused on securities fraud litigation.

Some of Ms. Molinaro's work includes:

- Representation of persons and entities that purchased or otherwise acquired *Lordstown Motors Corp. securities in Lim v. Hightower et al.* The lawsuit alleges that, throughout the Class Period, Lordstown represented publicly that it had been working collaboratively with Hon Hai Technology Group ("Foxconn") in the context of the companies' joint venture. However, Lordstown revealed in a court filing that, contrary to Lordstown's Class Period representations, the Company's vital partnership with Foxconn had long been in jeopardy and Foxconn's conduct toward Lordstown had been anything but collaborative.

Ms. Molinaro is admitted to the New York State Bar and the U.S. District Courts for the Southern and Eastern Districts of New York. She graduated from the University of Wisconsin-Madison (B.A. 2015) and from Fordham University School of Law (J.D. 2021) where she was a staff member of the International Law Journal and a recipient of the Archibald R. Murray Public Service Award. During law school, Ms. Molinaro was a student attorney for the Corporate Social Responsibility Clinic at Fordham University School of Law, where she researched and reported human trafficking in global food supply chains to an international NGO. Additionally, she served as a Judicial Intern for a judge in the New York State Supreme Court. Ms. Molinaro joined the firm in 2023.



Belden Nago is an associate based in our New York office. Mr. Nago joined the firm in 2011 and focuses on securities litigation.

Some of Mr. Nago's relevant experience includes:

- Lead counsel representing Wespath, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding

the design of the clinical trial (CARDINAL) for Reata's drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. This case has resulted in a \$45 million settlement.

- Co-lead counsel in Apple Gift Card Litigation, representing a class of consumers who were victims of gift-card scams and from whom Apple allegedly withholds funds.
- Counsel in *In re Deutsche Bank Spoofing Litigation* on behalf of a putative class of investors alleging manipulation through "spoofing" of U.S. Treasury futures traded on the Chicago Board of Trade and Eurodollar futures traded on the Chicago Mercantile Exchange.
- Representation of a putative class of exchange-based investors in *Dennis v. The Andersons, Inc. et al.*, alleging monopolization and manipulation of Chicago Board of Trade soft red winter wheat futures contracts in violation of federal antitrust and commodity exchange laws.
- Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries, alleging that HSBC ran money laundering operations out of New York City. The litigation settled for \$72.5 million, the then largest foreign derivatives settlement ever reached and one of the largest insurer-funded cash payments achieved in a U.S. derivatives lawsuit.
- Representation of a family office as plaintiff in *The Stone Family Trust v. Credit Suisse AG, et al.*, an opt-out lawsuit from *Chahal v. Credit Suisse Grp. AG, et al.* The cases arise from the collapse, on February 5, 2018, of XIV, an Exchange Traded note issued and underwritten by Credit Suisse designed to replicate the inverse of the daily performance of the S&P 500 VIX Short-Term Futures Index. Defendants had failed to disclose material risks to investing in XIV in its offering documents or public statements, and on February 5, 2018, XIV lost 96% of its value, or approximately \$1.56 billion.
- Co-lead counsel on behalf of a putative class of investors in *In re Natwest Treasury Futures Spoofing Litigation*, a trading markets manipulation case alleging manipulation through "spoofing" of U.S. Treasury futures. This matter is important in that it seeks to curb manipulative and abusive practices by dominant financial institutions and make Treasury futures markets more efficient.
- Court appointed Executive Committee member and class counsel representing cattle producers and cattle futures traders in *In re Cattle Antitrust Litigation*. The suit alleges that the "Big 4" meatpacking firms conspired to suppress prices for fed cattle and manipulated live cattle futures traded on the Chicago Mercantile Exchange.
- Co-lead counsel in *Macovski v. Groupon Inc. et al.*, a securities class action alleging that the company made materially false and misleading statements and failed to disclose to investors its financial health before ending its sale of physical goods and announcing the departure of two top executives. The case resulted in a \$13.5 million settlement that has received final approval.
- Representation of an ad hoc group of shareholders in *In re: Intelsat S.A., et al.*, the Intelsat bankruptcy proceedings, successfully obtaining warrants for the shareholders in a multi-party

trial before the bankruptcy court in Virginia.

- Lead counsel in *In re Citigroup Inc Securities Litigation*, a class action arising out of Citigroup's alleged misrepresentations regarding their exposure to losses associated with numerous collateralized debt obligations. This case settled for \$590 million.
- Selected by the Court as co-lead counsel in *In re JPMorgan Treasury Futures Spoofing Litigation*, alleging that defendants manipulated U.S. Treasury futures for more than a decade and that this conduct contributed to the bank's recent \$920 million settlement with the DOJ, CFTC, and SEC. The case has a putative settlement of \$15.7 million.
- Lead counsel on behalf of the New Mexico Attorney General's Office and the New Mexico State Investment Council in *In re Credit Default Swaps Auctions Litigation* alleging that leading credit default swap (CDS) dealers took part in a more than decade-long, multibillion-dollar scheme to manipulate the benchmark prices used to value credit default swap contracts at settlement.
- Counsel for a plaintiff on behalf of gold purchasers in *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, a market manipulation case. The case resulted in settlements of \$152 million.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.
- Representation of municipal issuers, including governmental entities and hospital systems, in FINRA arbitrations alleging misrepresentations by underwriters in connection with Auction Rate Securities issuances.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Representation of a whistleblower in *Anonymous, et ano. v. Moody's Corporation, et al.*, No. 103997/2012 (Sup. Ct. N.Y. Cty. and First Dept.), alleging millions of dollars of tax fraud using a sham captive insurance company for over a decade regarding domestic and international transactions. The litigation was settled for \$8.5 million.
- Representation of the proposed class of investors in *Shah v. Zimmer Biomet Holdings*, a securities class action alleging that a medical device company did not disclose systemic quality issues at its manufacturing facility.

Prior to joining KM, Mr. Nago was an associate in the Structured Finance department at Orrick, Herrington & Sutcliffe LLP. He is admitted to the New York State Bar and the U.S. Patent and

Trademark Office. Mr. Nago graduated from Northwestern University (B.S. 1997), the Massachusetts Institute of Technology (M.Eng., 1998), and Columbia Law School (J.D. 2003).



Marko Radisavljevic is an associate practicing out of our California office. Mr. Radisavljevic joined the firm in 2016 and concentrates on class action, consumer fraud, and antitrust matters.

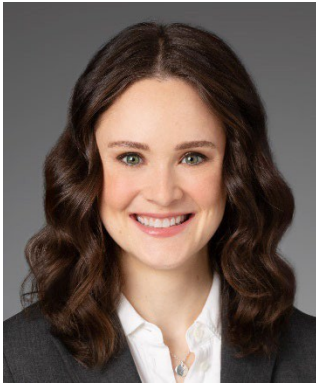
Some of Mr. Radisavljevic's recent work includes:

- First-chaired numerous arbitration hearings on behalf of employees of a nationwide fast casual chain who were subject to a mandatory arbitration provision. Relying upon JAMS Employment Arbitration Minimum Standards, Mr. Radisavljevic convinced many arbitrators to order broad e-discovery concerning the respondent's practices despite the relatively low-dollar value of the individual proceedings.
- Representation of the exchange-based class in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, an antitrust case alleging that defendant banks colluded to misreport and manipulate LIBOR. This litigation has already resulted in partial settlements totaling approximately \$187 million, which collectively represent the largest historical class-wide recovery for a "futures only" settlement class.
- Special fiduciary representation for the exchange-based class in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* for a putative class of participants who traded futures and options in the FX market. The case has already resulted in partial settlements of more than \$2.3 billion.
- Co-lead counsel in *Apple Gift Card Litigation*, representing a class of consumers who were victims of gift card scams and from whom Apple allegedly withholds funds.
- Counsel in *May v. Google et al.*, a consumer class action alleging that for nearly a decade Google has knowingly kept stolen money from victims of gift card scams who purchased Google Play gift cards.
- *In re Effexor XR Antitrust Litigation* for a putative class of direct purchasers of brand name and generic equivalents of extended-release venlafaxine hydrochloride capsules against drug manufacturers. Among the claims, defendants are alleged to have delayed market entry of generic versions and entered reverse payment settlements.

Mr. Radisavljevic has experience in all stages of litigation, including drafting pleadings and motions, discovery requests, working with experts, negotiating settlements, and both taking and defending fact and expert depositions. In addition to his class cases, Mr. Radisavljevic has worked with Casa Cornelia since 2019. He has assisted in helping three separate refugees obtain asylum after direct examinations in contested administrative proceedings.

Mr. Radisavljevic is fluent in Serbian and many former Yugoslavian dialects.

Mr. Radisavljevic is admitted to the California State Bar. He graduated from the University of San Diego (B.A. Biology with minors in Chemistry and Philosophy, 2005) and the California Western School of Law (J.D. 2015).



Lauren Wands is an associate practicing out of our New York office. Prior to joining KM, Ms. Wands was an associate at two large international law firms in New York, where she represented clients in federal securities fraud class action litigation, SEC and other regulatory inquiries, and internal investigations. She has co-authored several amicus briefs submitted to the U.S. Supreme Court, including amicus briefs in support of Congress in the consolidated cases *Trump v. Mazars USA, LLP* and *Trump v. Deutsche Bank AG*, and in support of the U.S. Department of Justice in *United States v. Texas*.

Ms. Wands is admitted to the New York State Bar, the District of Columbia Bar, and the United States District Courts for the Southern and Eastern Districts of New York. She graduated from the University of Washington (B.A. 2012) and Georgetown University Law Center (J.D., 2018), where she served as the Symposium & Communications Editor for The Georgetown Law Journal. During law school, Ms. Wands served as a law clerk for Senator Dianne Feinstein on the U.S. Senate Committee on the Judiciary. She also held an externship in the Criminal Division of the U.S. Attorney's Office for the Central District of California. Ms. Wands joined the firm in 2023.



David Alper is a staff attorney practicing out of our New York office. Prior to joining KM in 2024, Mr. Alper was a staff attorney at Levi Korsinsky and Labaton Sucharow, where he focused on complex commercial and securities matters. Mr. Alper spent over twenty years on Wall Street as an interdealer fixed income bond broker with the firms Tullett Prebon ICAP, Garvin Guy Butler, and Euro Brokers LLC.

Mr. Alper is admitted to the New York State Bar. He graduated from Tulane University (B.A. 1980) and from the University of the District of Columbia David A. Clarke School of Law (J.D. 1984).

Arianna Beltrez is a staff attorney practicing out of our New York office. Prior to joining Kirby

McInerney in 2024, Ms. Beltrez was a Senior Assistant District Attorney with the Kings County District Attorney's Office, where she prosecuted a wide variety of felony cases and was directly responsible for investigations and case enhancement from inception to trial. Her time with the District Attorney's Office afforded her extensive investigative and courtroom experience as well as the opportunity to engage in drafting indictments, search warrants, accusatory instruments, and substantial motion practice.

Ms. Beltrez previously spent time as a Senior Associate with Wilson Elser, where she represented established businesses, municipalities, construction managers, and owners in all aspects of civil litigation. Her practice focused on the defense of claims related to general liability, labor law, and construction litigation. Additionally, at Keller Postman, Ms. Beltrez worked collaboratively with a team to build and advance a mass tort action across various state courts across the United States.

Ms. Beltrez is admitted to the New York State Bar and the U.S. District Courts for the Southern and Eastern Districts of New York. She graduated from Brooklyn College (B.S. 2016) and Albany Law School (J.D. 2018)



Josh Ciampi is a staff attorney practicing out of our New York office. Prior to joining KM in 2024, Mr. Ciampi was a Legal Affairs Officer for the United Nations Conference on Trade and Development. While there, Mr. Ciampi analyzed a wide array of domestic and international competition law issues.

Mr. Ciampi is admitted to the New York State Bar. He graduated from Fordham University (B.A. 2015) and from The George Washington University School of Law (J.D. 2020).



Kelsey Jack is a staff attorney practicing out of our New York office. Prior to joining KM, Mr. Jack developed extensive experience in antitrust, consumer and data protection, and securities litigation working with firms including Lieff Cabraser Heimann & Bernstein, LLP and Bleichmar Fonti & Auld LLP.

Mr. Jack is a Certified Information Privacy Professional (CIPP/US) and was a member of the American Bar Association's (SIL) Privacy, Cybersecurity & Digital Rights Committee.

Mr. Jack participated in the Sponsor for Educational Opportunity (SEO) career program for investment banking before attending law school. He currently serves as a volunteer youth sports coach and mentor

in his local community.

Mr. Jack is admitted to the New York State Bar and the U.S. District Courts for the Southern and Eastern Districts of New York. He graduated from Baruch College, CUNY (B.B.A. magna cum laude, 2002) and from Georgetown University Law Center (J.D. 2007), where he was a member of the Georgetown Journal of International Law and earned a Certificate in Refugee and Humanitarian Affairs.



Ephraim Kaplan is a staff attorney practicing out of our New York office.

Prior to joining KM, Mr. Kaplan was an associate at a New York real estate law firm, where his practice focused on commercial real estate transactions. He also has experience working on restructuring and complex eDiscovery matters.

Mr. Kaplan is admitted to the New York State Bar. He graduated from Beth Medrash Govoha (B.T.S., 2017) and Fordham University School of Law (J.D., 2020), where he was a staff member of the Fordham Environmental Law Review. Additionally, he served as a Judicial Intern for The Honorable Leon Ruchelsman in the New York State Supreme Court.

Christopher Lee worked as a staff attorney at KM during 2020 and 2021. Mr. Lee is admitted to the New York State Bar. Prior to joining KM, Mr. Lee was an associate at Cooper & Associates, and prior to that, at Weil Gotshal & Manges LLP. He graduated from the University of Pennsylvania Law School (J.D., 2015) and from Brown University (B.A., 2010).



Cynthia Markham is a staff attorney practicing out of our New York office. Prior to joining KM in 2023, Ms. Markham was a staff attorney at Labaton Sucharow and Bleichmar Fonti & Auld, LLP, where she focused on complex commercial and securities matters. Ms. Markham was a member of the teams that successfully prosecuted and resolved cases against Intuitive Surgical, Inc., Teva Pharmaceutical Industries Ltd., and Granite Construction, Inc. She was also involved in the *In re: Facebook, Inc. Consumer Privacy User Profile* litigation.

Some of Ms. Markham's work includes:

- Court appointed Executive committee member and class counsel in *In re Digital Advertising*

Antitrust Litigation, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.

- Lead counsel representing Wespeth, the General Board of Pension and Health Benefits of the United Methodist Church, in *Doyle v. Reata Pharmaceuticals*, a securities class action alleging that Reata made false and/or misleading statements — including in connection with its secondary public stock offerings — concerning, inter alia, the FDA guidance regarding the design of the clinical trial (CARDINAL) for Reata’s drug candidate, bardoxolone methyl. When the FDA revealed serious concerns it had previously raised to Reata, the share price declined materially. This case has resulted in a \$45 million settlement.

Ms. Markham is admitted to the New York State Bar. She graduated from John Jay College of Criminal Justice (B.A. 2008) and Rutgers Law School (J.D. 2012).



Nodira Rakhmatkariyeva is a staff attorney practicing out of our New York office. Prior to joining KM, Ms. Rakhmatkariyeva was a staff attorney at Walden, Macht and Haran, LLP, where she was part of the teams working on DOJ and DEA investigation of a pharmaceutical company in connection with the opioid crisis and a financial institution’s internal compliance investigation. Ms. Rakhmatkariyeva has extensive experience in the electronic discovery of complex civil litigations, including high profile financial, pharmaceutical and RMBS matters as well as SEC and FTC investigations.

Ms. Rakhmatkariyeva is fluent in Russian and currently studies French.

Some of Ms. Rakhmatkariyeva's work includes:

- Court appointed Executive committee member and class counsel in *In re Digital Advertising Antitrust Litigation*, representing publishers alleging that Google monopolized and suppressed competition in online display advertising.
- Lead counsel on behalf of the New Mexico Attorney General’s Office and the New Mexico State Investment Council in *In re Credit Default Swaps Auctions Litigation* alleging that leading credit default swap (CDS) dealers took part in a more than decade-long, multibillion-dollar scheme to manipulate the benchmark prices used to value credit default swap contracts at settlement.

Ms. Rakhmatkariyeva is admitted to the New York State Bar and the New Jersey State Bar. She graduated from Rutgers University (B.A. 2001) and from New York Law School (J.D. 2004).

Christopher S. Wilson is a staff attorney practicing out of our New York office. Prior to joining KM in 2024, Dr. Wilson was an associate at two intellectual property boutiques, where he represented pharmaceutical and biotechnology clients in Hatch-Waxman patent litigation, patent prosecution, and FDA inquiries. Dr. Wilson has extensive experience in electronic discovery, especially in connection with complex commercial litigation.

Dr. Wilson received his Ph.D. in Molecular Genetics and Viral Immunology from Emory University and his J.D. from Columbia University. During law school, Dr. Wilson served as a Judicial Intern for The Honorable Michael J. Obus of the New York State Supreme Court.

Dr. Wilson is admitted to the New York State Bar. He graduated from Hampden-Sydney College (B.S. 1994), Emory University (Ph.D. 2000), and Columbia University (J.D. 2003).

Client & Adversary Recognition

KM received the highest available commendations from the City of New York four years in a row for its work on the AWP Litigation. In each of those four years, KM's efforts on the City's behalf received the overall rating of "excellent". The City elaborated, "*Kirby did a truly excellent job and the results reflect that.*"

**Plaintiff / client,
In re Pharmaceutical Industry Average Wholesale Price Litigation**

"The case has been in front of the Supreme Court of the United States once, and in front of the Ninth Circuit no fewer than three times. Throughout, [KM] has . . . brought a considerable degree of success . . . and thwarted attempts by other counsel who sought to settle . . . and destroy a potential billion dollars of class rights."

**Plaintiff / client,
Epstein v. MCA, Inc.**

"[KM] represented us diligently and successfully. Throughout [KM's] representation of our firm, [KM's] commitment and attention to client concerns were unimpeachable."

**European institutional defendant /client
involved in a multi-million dollar NASO arbitration**

"Against long odds, [KM] was able to obtain a jury verdict against one of the larger, more prestigious New York law firms."

**Plaintiff / client,
Vladimir v. U.S. Banknote Corporation**

"[KM] represented our investors with probity, skill, and diligence. There is too much money involved in these situations to leave selection of class counsel to strangers or even to other institutions whose interests may not coincide."

**Plaintiff / institutional client,
In re Cendant Corporation PRIDES Litigation**

Notables

The firm has repeatedly demonstrated its ability in the field of securities, antitrust, commodities, structured finance, whistleblower, health care, consumer, and other fraud litigation, and our success has been widely recognized. For example:

CFTC Whistleblower Program award of nearly \$200 million to whistleblower client in connection with recoveries from global banks that manipulated benchmark rates.

State of NY ex rel. Tooley, LLC v. Sandell, et al., No. 101494/2018. Whistleblower client received award of 21% of \$105 million recovery.

Michael Mason-Mahon v. Douglas J. Flint et al., Index No. 602052/2014 (Sup. Ct. Nassau Cty.). Representation in a shareholder derivative lawsuit against officers and directors of HSBC Holdings and its subsidiaries. \$72.5 million settlement.

In re Bristow Group Inc. Securities Litigation, No. 19-cv-00509 (S.D.Tex.2019). Co-lead counsel. \$6.25 million settlement.

Anonymous v. Anonymous, Index No. 103997/2012 (Sup. Ct., N.Y. Cty. 2019). Representation of whistleblower. Client received award of 30% of \$8.5 million recovery.

Sullivan v. Barclays PLC, No. 13-cv-02811 (S.D.N.Y.). Class counsel. This case has already resulted in partial settlements of more than \$300 million.

In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 13-cv-07789 (S.D.N.Y.). Special fiduciary representation for the exchange-based class. This case has already resulted in partial settlements of over \$2.3 billion.

In re Cathode Ray Tube (CRT) Antitrust Litigation, No. MDL No. 1917 (N.D. Cal. 2019). Representation of indirect purchasers. \$576 million settlement.

State of New York ex rel. Choe v. Spa Castle, Inc., No. 101243/2014 (N.Y. Sup. Ct. 2018). Representation of whistleblower. Client received award of 23% of \$2.5 million recovery.

Esposito v. American Renal Assocs. Holdings, Inc., No. 16-cv-11797 (D. Mass. 2018). Lead counsel. \$4 million settlement.

In re Resonant Inc. Securities Litigation, No. 15-cv-01970 (C.D. Cal. 2017). Co-lead counsel. \$2.75 million settlement.

In re MolyCorp, Inc. Securities Litigation, No. 13-cv-05697 (S.D.N.Y. 2017). Lead counsel. \$1.25 million settlement.

In re AudioEye, Inc. Securities Litigation, No. 15-cv-00163 (D. Ariz. 2017). Lead counsel. \$1.525 million settlement.

In re Bio-Rad Laboratories, Inc. Stockholder Litigation, C.A. No. 11387 (Del. Ch. Ct.). Co-lead counsel in a shareholder derivative action. The case settled with a parallel action in California state court. As a result of this settlement, Bio-Rad to adopt industry leading, state-of-the-art corporate governance and compliance measures to provide for greater effectiveness of the Board of Directors in responding to potential violations of the Foreign Corrupt Practices Act (FCPA) and similar anti-corruption laws.

Rothstein v. GMAC Mortgage LLC, No. 12-cv-3412 (S.D.N.Y.). Lead counsel. \$13 million settlement against GMAC Mortgage LLC in *In re Residential Capital, LLC, et al.*, No. 12-12020 (Bankr. S.D.N.Y. 2016).

U.S. ex rel. Dickhudt v. Winds Enterprises, No. 13-cv-01142 (W.D. Wa.). Representation of whistleblower. Client received award of 20% of \$1.5 million settlement.

In re MOL Global, Inc. Securities Litigation, No. 14-cv-09357 (S.D.N.Y. 2016). Lead counsel. \$8.5 million settlement.

Globis Capital Partners, L.P., et al. v. The Cash Store Financial Services Inc., et al., No. 13-cv-3385 (S.D.N.Y. 2015): Co-lead counsel. CAD \$13,779,167 cash settlement, representing roughly 50% of total class-wide stock losses.

Dandong v. Pinnacle Performance Ltd., No. 10-cv-08086 (S.D.N.Y. 2015). Lead counsel. \$20 million settlement.

In re Hi-Crush Partners L.P. Securities Litigation, No. 12-cv-8557 (S.D.N.Y. 2015). Lead counsel. \$3.8 million settlement while class certification was pending.

In re Citigroup Inc. Securities Litigation, No. 07-cv-9901 (S.D.N.Y. 2013). Lead counsel. \$590 million settlement.

Barfuss v. DGSE Companies, Inc., No. 12-cv-3664 (N.D. Tex. 2013). Lead Counsel. \$1.7 million settlement.

In re National City Corporation Securities, Derivative & ERISA Litigation, No. 08-cv-70004 (N.D. Ohio 2012). Lead counsel. \$168 million settlement.

In re Wachovia Equity Securities Litigation, No. 08-cv-6171 (S.D.N.Y. 2012). Lead counsel. \$75 million settlement.

In re BP Propane Indirect Purchaser Antitrust Litigation, No. 06-cv-3541 (N.D. Ill. 2010). Co-lead counsel. \$15 million settlement on behalf of propane purchasers.

In re J.P. Morgan Chase Cash Balance Litigation, No. 06-cv-732 (S.D.N.Y. 2010). Co-lead counsel.

"Plaintiffs' counsel operated with a strong, genuine belief that they were litigating on behalf of a group of employees who had been injured and who needed representation and a voice, and, at great expense to [themselves], made Herculean efforts on behalf of the class over years. They're to be commended for their fight on behalf of people that they believed had been victimized."

In re Pfizer Inc. Shareholder Derivative Litigation, No. 09-cv-7822 (S.D.N.Y.). Pfizer agreed to pay a proposed settlement of \$75 million and to make groundbreaking changes to the Board's oversight of regulatory matters.

In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1456; *City of New York, et al. v. Abbott Laboratories, et al.*, No. 01 Civ. 12257 (D. Mass). KM represented the State of Iowa, the City of New York, and forty-two New York State counties in a lawsuit against forty defendant drug manufacturers asserting that they manipulated their average wholesale price data to inflate prices charged to government drug benefits payers. Recovery of over \$225 million for the plaintiffs.

In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions, No. 05-cv-01671 (C.D. Cal). Lead counsel. \$48 million settlement for indirect purchasers.

In re BISYS Securities Litigation, No. 04-cv-3840 (S.D.N.Y. 2007). Co-lead counsel. \$66 million settlement.

"In this Court's experience, relatively few cases have involved as high level of risk, as extensive discovery, and, most importantly, as positive a final result for the class members as that obtained in this case."

Cox v. Microsoft Corporation, Index No. 105193/00, Part 3 (N.Y. Sup. Ct.). Lead counsel. \$350 million settlement.

In re AT&T Corp. Securities Litigation, No. 00-cv-8754 (S.D.N.Y. 2006). Lead counsel. \$150 million settlement.

In re Adelpia Communications, Inc. Securities Litigation, No. 04-cv-05759 (S.D.N.Y. 2006). Co-lead counsel. \$478 million settlement.

"[T]hat the settlements were obtained from defendants represented by 'formidable opposing counsel from some of the best defense firms in the country' also evidences the high quality of lead counsels' work."

Lapin v. Goldman Sachs & Co., No. 04-cv-2236 (S.D.N.Y.). Co-lead counsel. \$29 million settlement.

Montoya v. Herley Industries, Inc., No. 06-cv-2596 (E.D. Pa). Lead counsel. \$10 million settlement.

Carnegie v. Household International Inc., et al., No. 98-cv-2178 (N.D. Ill. 2006). Co-lead counsel. \$39 million settlement.

"Since counsel took over the representation of this case . . ., they have pursued this case, conducting discovery, hiring experts, preparing for trial, filing motions where necessary, opposing many motions, and representing the class with intelligence and hard work. They have obtained an excellent result for the class."

Dutton v. Harris Stratex Networks Inc. et al., No. 08-cv-00755 (D. Del). Lead counsel. \$8.9 million settlement.

In re Isologen Inc. Securities Litigation, No. 05-cv-4983 (E.D. Pa.). Lead counsel. \$4.4 million settlement.

In re Textron, Inc. Securities Litigation, No. 02-cv-0190 (D.R.I.). Co-lead counsel. \$7 million settlement.

Argent Convertible Classic Arbitrage Fund, L.P. v. Amazon.com, Inc. et al., No. 01-cv-0640L (W.D. Wash. 2005). Lead counsel. \$20 million settlement for class of convertible euro-denominated bond purchasers.

Muzinich & Co., Inc. et al. v. Raytheon Company et al., No. 01-cv-0284 (D. Idaho 2005). Co-lead counsel. \$39 million settlement.

Gordon v. Microsoft Corporation, No. 00-cv-5994 (Minn. Dist. Ct., Henn. Cty. 2004). Co-lead counsel. \$175 million settlement following two months of trial.

In re Visa Check/MasterMoney Antitrust Litigation, No. 96-cv-5238 (E.D.N.Y. 2003). \$3 billion monetary settlement and injunctive relief.

In re Florida Microsoft Antitrust Litigation, No. 99-cv-27340 (Fl. Cir. Ct. 11th Cir., Miami/Dade Cty. 2003). Co-lead counsel. \$200 million settlement of antitrust claims.

In re Churchill Securities, Inc. (SIPA Proceeding), No. 99 B 5346A (Bankr. S.D.N.Y. 2003). Lead counsel. Over \$9 million recovery for 500+ victims of pyramid scheme perpetrated by defunct brokerage firm.

In re Laidlaw Bondholder Securities Litigation, No. 00-cv-2518-17 (D. S.C. 2002). Lead counsel. \$42.8 million settlement.

Cromer Finance v. Berger et al. (*In re Manhattan Fund Securities Litigation*), No. 00-cv-2284 (S.D.N.Y. 2002). Co-lead counsel. \$65 million settlement in total.

In re Boeing Securities Litigation, No. 97-cv-715 (W.D. Wash. 2001). \$92.5 million settlement.

In re MCI Non-Subscriber Telephone Rates Litigation, MDL No. 1275 (S.D. Ill. 2001). Chairman of steering committee. \$88 million settlement.

In re General Instrument Corp. Securities Litigation, No. 01-cv-1351 (E.D. Pa. 2001). Co-lead counsel. \$48 million settlement.

In re Bergen Brunswick/Bergen Capital Trust Securities Litigation, 99-cv-1305 and 99-cv-1462 (C.D. Cal. 2001). Co-lead counsel. \$42 million settlement.

Steiner v. Aurora Foods, No. 00-cv-602 (N.D. Cal. 2000). Co-lead counsel. \$36 million settlement.

Gerber v. Computer Associates International, Inc., No. 91-cv-3610 (E.D.N.Y. 2000). Multi-million dollar jury verdict in securities class action.

Rothman v. Gregor, 220 F.3d 81 (2d Cir. 2000). Principal counsel of record in appeal that resulted in first ever appellate reversal of the dismissal of a securities fraud class action under the Securities Reform Act of 1995.

Bartold v. Glendale Federal Bank, 81 Cal.App.4th 816 (2000). Ruling on behalf of hundreds of thousands of California homeowners establishing banks' duties regarding title reconveyance.

In re Cendant Corporation PRIDES Litigation, 51 F. Supp. 2d 537, 542 (D. N.J. 1999). Lead counsel. \$340 million settlement.

"[R]esolution of this matter was greatly accelerated by the creative dynamism of counsel." * * * "We have seen the gifted execution of responsibilities by a lead counsel."

In re Waste Management, Inc. Securities Litigation, No. 97C 7709 (N.D. Ill. 1999). Co-lead counsel. \$220 million settlement.

"...[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases... in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here... I would say this has been the best representation that I have seen."

In re Bennett Funding Group, Inc. Securities Litigation, No. 96-cv-2583 (S.D.N.Y. 1999). Co-lead counsel. \$140 million settlement (\$125 million recovered from Generali U.S. Branch, insurer of Ponzi scheme instruments issued by Bennett Funding Group; \$14 million settlement with Mahoney Cohen, Bennett's auditor).

In re MedPartners Securities Litigation, No. 98-cv-06364 (Ala. June 1999). Co-lead counsel. \$56 million settlement.

In re MTC Electronic Technologies Shareholder Litigation, No. 93-cv-0876 (E.D.N.Y. 1998). Co-lead counsel. Settlement in excess of \$70 million.

Skouras v. Creditanstalt International Advisers, Inc., et al., NASD Arb., No. 96-05847 (1998). Following an approximately one month hearing, successfully defeated multi-million dollar claim against major European institution.

In re Woolworth Corp. Securities Class Action Litigation, No. 94-cv-2217 (S.D.N.Y. 1997). Co-lead counsel. \$20 million settlement.

In re Archer Daniels Midland Inc. Securities Litigation, No. 95-cv-2877 (C.D. Ill. 1997). Co-lead counsel. \$30 million settlement.

Vladimir v. U.S. Banknote Corp., No. 94-cv-0255 (S.D.N.Y. 1997). Multi-million dollar jury verdict in § 10(b) action.

In re Archer Daniels Midland Inc. Securities Litigation, No. 95-cv-2877 (C. D. Ill. 1997). Co-lead counsel. \$30 million settlement.

Epstein et al. v. MCA, Inc., et al., 50 F.3d 644 (9th Cir. 1995), *rev'd and remanded on other grounds*, *Matsushita Electric Industrial Co., Ltd. et al. v. Epstein et al.*, No. 94-1809, 116 S. Ct. 873 (February 27, 1996). Lead counsel. Appeal resulted in landmark decision concerning liability of tender offeror under section 14(d)(7) of the Williams Act, SEC Rule 14d-10 and preclusive effect of a release in a state

court proceeding. In its decision granting partial summary judgment to plaintiffs, the court of appeals for the Ninth Circuit stated:

"The record shows that the performance of the Epstein plaintiffs and their counsel in pursuing this litigation has been exemplary."

In re Abbott Laboratories Shareholder Litigation, No. 92-cv-3869 (N.D. Ill. 1995). Co-lead counsel. \$32.5 million settlement.

"The record here amply demonstrates the superior quality of plaintiffs' counsel's preparation, work product, and general ability before the court."

In re Morrison Knudsen Securities Litigation, No. 94-cv-334 (D. Id. 1995). Co-lead counsel. \$68 million settlement.

In re T2 Medical Inc. Securities Litigation, No. 94-cv-744 (N.D. Ga. 1995). Co-lead counsel. \$50 million settlement.

Gelb v. AT&T, No. 90-cv-7212 (S.D.N.Y. 1994). Landmark decision regarding filed rate doctrine leading to injunctive relief.

In re International Technology Corporation Securities Litigation, No. 88-cv-40 (C.D. Cal. 1993). Co-lead counsel. \$13 million settlement.

Colaprico v. Sun Microsystems, No. 90-cv-20710 (N.D. Cal. 1993). Co-lead counsel. \$5 million settlement.

Steinfink v. Pitney Bowes, Inc., No. B90-340 (JAC) (D. Conn. 1993). Lead counsel. \$4 million settlement.

In re Jackpot Securities Enterprises, Inc. Securities Litigation, No. CV-S-89-05-LDG (D. Nev. 1993). Lead counsel. \$3 million settlement.

In re Nordstrom Inc. Securities Litigation, No. C90-295C (W.D. Wa. 1991). Co-lead counsel. \$7.5 million settlement.

United Artists Litigation, No. CA 980 (Sup. Ct., L.A., Cal.). Trial counsel. \$35 million settlement.

In re A.L. Williams Corp. Shareholders Litigation, C.A. No. 10881 (Delaware Ch. 1990). Lead counsel. Benefits in excess of \$11 million.

In re Triangle Inds., Inc., Shareholders' Litigation, C.A. No. 10466 (Delaware Ch. 1990). Co-lead counsel. Recovery in excess of \$70 million.

Schneider v. Lazard Freres, No. 38899, M-6679 (N.Y. App. Div. 1st Dept. 1990). Co-lead counsel. Landmark decision concerning liability of investment bankers in corporate buyouts. \$55 million settlement.

Rothenberg v. A.L. Williams, C.A. No. 10060 (Delaware. Ch. 1989). Lead counsel. Benefits of at least \$25 million to the class.

Kantor v. Zondervan Corporation, No. 88-cv-C5425 (W.D. Mich. 1989). Lead counsel. Recovery of \$3.75 million.

King v. Advanced Systems, Inc., No. 84-cv-C10917 (N.D. Ill. E.D. 1988). Lead counsel. Recovery of \$3.9 million (representing 90% of damages).

Straetz v. Cordis, No. 85-cv-343 (S.D. Fla. 1988). Lead counsel.

"I want to commend counsel and each one of you for the diligence with which you've pursued the case and for the results that have been produced on both sides. I think that you have displayed the absolute optimum in the method and manner by which you have represented your respective clients, and you are indeed a credit to the legal profession, and I'm very proud to have had the opportunity to have you appear before the Court in this matter."

In re Flexi-Van Corporation, Inc. Shareholders Litigation, C.A. No. 9672 (Delaware. Ch. 1988). Co-lead counsel. \$18.4 million settlement.

Entezed, Inc. v. Republic of Nigeria, I.C.C. Arb. (London 1987). Multi-million dollar award for client.

In re Carnation Company Securities Litigation, No. 84-cv-6913 (C.D. Cal. 1987). Co-lead counsel. \$13 million settlement.

In re Data Switch Securities Litigation, B84 585 (RCZ) (D. Conn. 1985). Co-lead counsel. \$7.5 million settlement.

Stern v. Steans, No. 80-cv-3903. The court characterized the result for the class obtained during trial to jury as "unusually successful" and "incredible" (Jun 1, 1984).

In re Datapoint Securities Litigation, No. 82-cv-338 (W.D. Tex.). Lead counsel for a Sub-Class. \$22.5 million aggregate settlement.

Malchman, et al. v. Davis, et al., No. 77-cv-5151 (S.D.N.Y. 1984).

"It is difficult to overstate the far-reaching results of this litigation and the settlement. Few class actions have ever succeeded in altering commercial relationships of such magnitude. Few class action settlements have even approached the results achieved herein.... In the present case, the attorneys representing the class have acted with outstanding vigor and dedication . . . Although the lawyers in this litigation have appeared considerably more in the state courts than in the federal court, they have appeared in the federal court sufficiently for me to attest as to the high professional character of their work. Every issue which has come to this court has been presented by both sides with a thoroughness and zeal which is outstanding In sum, plaintiffs and their attorneys undertook a very large and difficult litigation in both the state and federal courts, where the stakes were enormous. This litigation was hard fought over a period of four years. Plaintiffs achieved a settlement which altered commercial relationships involving literally hundreds of millions of dollars.

EXHIBIT C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

Master File No. 11-md-2262 (NRB)

THIS DOCUMENT RELATES TO:

METZLER INVESTMENT GmbH, et al.,

No. 11 Civ. 2613

Plaintiffs,

v.

CREDIT SUISSE GROUP AG, et al.

Defendants.

**DECLARATION OF BENJAMIN M. JACCARINO IN SUPPORT OF INTERIM CO-
LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF
LOVELL STEWART HALEBIAN JACOBSON LLP**

I, Benjamin M. Jaccarino, declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a partner at the law firm of Lovell Stewart Halebian Jacobson LLP (“Lovell Stewart”), one of the Court-appointed Interim Co-Lead Counsel for the Exchange-Based Plaintiffs (“Plaintiffs”) in the above-captioned action (the “Action”). I respectfully submit this declaration in support of Interim Co-Lead Counsel’s application for an award of attorneys’ fees in connection with services rendered in the Action, as well as for reimbursement of expenses incurred in connection with the Action. The statements herein are true to the best of my personal knowledge, information and belief based on the books and records of Lovell Stewart and information provided by its attorneys and staff. Lovell Stewart’s time and expense records are prepared and maintained in the ordinary course of business.

2. Since being appointed Interim Co-Lead Counsel for the Exchange-Based Plaintiffs on November 29, 2011 (*see* MDL ECF No. 66), together with Interim Co-Lead Counsel at the Kirby law firm, my firm has overseen and directed all aspects of the Exchange-Based Action. The specifics of the work performed by my firm are set forth in the concurrently-filed Joint Declaration of David E. Kovel and Christopher Lovell in Support of (A) Exchange-Based Plaintiffs’ Motion for Final Approval of Class Action Settlement, and (B) Exchange-Based Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses. By way of summary, since the final approval of the Prior Settlements, Lovell Stewart has continued to litigate on behalf of the Exchange-Based Plaintiffs and the proposed Settlement Class, by *inter alia*, (i) filing amended pleadings; (ii) negotiating litigation schedules in coordination with other class and direct plaintiffs; (iii) engaging in motion practice; (iv) responding to and serving written discovery; (v) performing legal research; (vi) conducting economic analyses; (vii) conferring and collaborating with counsel for other classes and direct plaintiffs with respect to litigation strategy;

(viii) developing settlement strategy; (ix) diligently compiling evidence relating to the Settling Defendants; and (x) negotiating a global settlement with each of the Settling Defendants that, if approved, would result in the resolution of all claims in the Exchange-Based Action.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by attorneys and professional support staff of my firm who were involved in, and billed five or more hours to this Action, and the lodestar calculation for those individuals based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based on the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared based upon daily time records maintained by Lovell Stewart's attorneys and professional support staff in the ordinary course of business. Time expended on Co-Lead Counsel's application for attorneys' fees and reimbursement of litigation expenses has been excluded. Before submitting this declaration, my firm's time and expenses were reviewed for accuracy, necessity, and reasonableness. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment and/or to conform with Co-Lead Counsel and/or my firm's practice. As a result of this review and adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the efficient prosecution and resolution of this Action.

4. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit 1 are in line with the rates by other lawyers at law firms handling large, complex class action litigation and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.

5. The total number of hours reflected in Exhibit 1, from August 13, 2020 through June 30, 2024, is 133.06. The total fee compensable lodestar reflected in Exhibit 1 for that period is \$136,840.95, consisting of \$136,840.95 for attorneys' time and \$0 for professional support staff time.

6. My firm's lodestar figures are based on the firm's billing rates, and do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

7. As detailed in Exhibit 2, my firm is seeking reimbursement for a total of \$21,817.66 in litigation expenses incurred in connection with the prosecution of this Action from August 13, 2020 through June 30, 2024.

8. The litigation expenses reflected in Exhibit 2 are the actual incurred expenses, and do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s). There are no administrative charges included in these figures.

9. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense reports, receipts, check and bank records, and other source materials and are an accurate record of the expenses incurred.

10. My firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

11. Attached hereto as Exhibit 3 are brief biographies of my firm and all attorneys for whose work on this case fees are being sought.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on August 1, 2024.

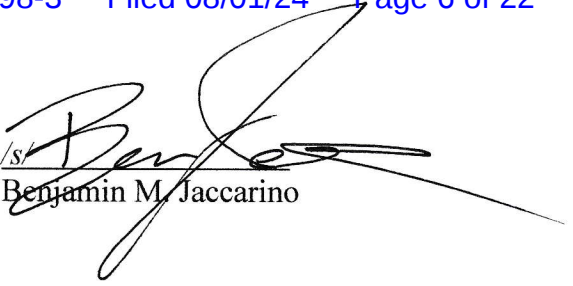

/s/ Benjamin M. Jaccarino

EXHIBIT 1

EXHIBIT 1
Lovell Stewart Halebian Jacobson LLP
TIME REPORT

August 13, 2020 through June 30, 2024

| Name | Hours | Hourly Rate | Lodestar |
|-----------------|--------------|--------------------|-----------------|
| Partners | | | |
| Chris Lovell | 8.1 | \$1,210 | \$9,801.00 |
| Jody Krisiloff | 93.95 | \$1,035 | \$97,238.25 |
| Victor Stewart | 25.71 | \$1,020 | \$26,224.20 |
| Ben Jaccarino | 5.3 | \$675 | \$3,577.50 |
| | | | |
| TOTALS: | 133.06 | | \$136,840.95 |
| | | | |

* The time for former employees was recorded prior to their departures and reflect their billing rates in his or her final year of employment.

EXHIBIT 2

EXHIBIT 2
Lovell Stewart Halebian Jacobson LLP
EXPENSE REPORT

August 13, 2020 through June 30, 2024

| Category | Amount |
|--|--------------------|
| Online Legal Research | \$2,539.16 |
| Document Management/Litigation Support | \$19,278.50 |
| | |
| TOTAL EXPENSES: | \$21,817.66 |

EXHIBIT 3

EXHIBIT 3**Lovell Stewart Halebian Jacobson LLP
FIRM RÉSUMÉ AND BIOGRAPHIES**

Lovell Stewart Halebian Jacobson LLP (“Lovell Stewart”) and its predecessors (collectively, the “Firm”) have been privileged to have been appointed to serve as class counsel and prosecute complex actions since 1980. See www.lshllp.com (Firm website).

Lovell Stewart is the premier class action law firm prosecuting claims involving commodity manipulation and price fixing, and exchange related antitrust claims. To the best of Lovell Stewart’s knowledge, the Firm is the **first** and **only** plaintiffs’ law firm to do any of the following: (a) argue to the United States Supreme Court successfully to uphold the private right of action under the Commodity Exchange Act, 7 U.S.C. §1, *et seq.* (“CEA”); (b) try a CEA manipulation claim successfully; (c) argue successfully for class certification of such claim in Courts of Appeals; and (d) argue for and successfully establish the viability of CEA manipulation allegations from the time that the claim itself arguably did not exist until its well-accepted status today. See *infra*.

The Firm believes that the best indicator of an attorney’s experience serving as class counsel is the net recovery to the client that the attorney produces. The Firm believes that lesser indicators of such attorney experience include the following: (1) the amounts of the class action settlements the attorney produces relative to other such settlements under the same statute; (2) the difficulty or complexity of the cases handled; and (3) whether the attorney’s work on behalf of the class has contributed significantly to the development of the law.

The Net Recovery to The Client. Reportedly, the amount of recovery in financial class actions varies, but averages approximately 5-10 percent of class member losses.

The Firm, as court-appointed lead or co-lead counsel for the class, has succeeded in obtaining (so far) **seven** different class action settlements that recovered, after deduction for all costs and attorneys’ fees, **100¢** on each dollar of losses* of each claiming class member:

- *In re NASDAQ Market-Makers Antitrust Litig.*, 187 F.R.D. 465(S.D.N.Y. 1998);
- *In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999);
- *Blatt v. Merrill Lynch Fenner & Smith Inc.*, 94 Civ. 2348 (JAG) (D.N.J.);
- *In re Soybeans Futures Litig.*, 89 Civ. 7009 (CRN) (N.D. Ill.);
- *In re BP Propane Indirect Purchaser Antitrust Litig.*, 06-cv-3541 (JBZ) (N.D. Ill.);
- *Kaplan v. E.F. Hutton Group, Inc., et al.*, Civ. No. 88-00889 (N.Y. Sup. Ct.); and
- *Krome v. Merrill Lynch and Co., Inc.*, 85-cv-765 (DNE) (S.D.N.Y.).

Another such class action recovery was in *In re: Platinum and Palladium Commodities Litigation*, Futures Action, 10-cv-3617 (WHP) (S.D.N.Y.), where claiming class members received a recovery of 185% on each dollar of their “net artificiality paid.”

* “Losses” means single, actual damages, exclusive of trebling and also exclusive of any prejudgment interest.

Gross Recoveries Relative to Other Settlements Under The Same Statute. Three of the above-mentioned settlements represented, at the time the settlement was made, the **largest** class action settlement in the history of the law under which the claim was brought. These were, respectively, the federal antitrust laws,[†] the CEA,[‡] and the Investment Company Act, 15 U.S.C. §80a-1, *et seq.*[§] Also, one of the Firm's senior partners was a court-appointed member of the Executive Committee in the price fixing case that obtained what was then the second largest class action settlement in the history of the federal antitrust laws.^{**}

The Firm, as court-appointed sole lead or co-lead counsel for classes alleging commodity futures manipulation, has produced what were, at the time the settlement was made, the largest,^{††} the second largest,^{‡‡} the third largest,^{§§} and the fourth largest^{***} class action recoveries in the history of the CEA. The Firm was co-lead counsel in what is currently the largest settlement in any commodity futures manipulation class action under the CEA.^{†††}

Further, the Firm has been privileged to serve as court-appointed class counsel in antitrust cases in which billions of dollars have been recovered^{†††} and has also acted as an executive member in antitrust or non-CEA manipulation class actions in which significant

[†] See *NASDAQ*, 187 F.R.D. at 471 (“this all-cash settlement [for \$1,027,000,000], achieved through ‘four years of hard-fought litigation,’ apparently is the largest recovery (class action or otherwise) in the hundred-year history of the state and federal antitrust laws.”).

[‡] *Sumitomo*, 74 F. Supp. 2d at 395 (“The recovery is the largest class action recovery in the 75 plus year history of the Commodity Exchange Act”).

[§] *Blatt*, 94 Civ. 2348 (JAG) (D.N.J.) (“by far the largest settlement” of class action claims under the Investment Company Act, *Securities Class Action Alert* letter dated August 17, 2000).

^{**} *In re Brand Name Prescription Drugs Antitrust Litig.*, No. 94 C 897 (N.D. Ill.) (\$696,657,000 plus other relief was obtained.).

^{††} *Sumitomo*, 74 F. Supp. 2d at 395 (the Firm acted as sole lead counsel).

^{‡‡} *Kohen v. Pac. Inv. Mgmt. Co. LLC*, 244 F.R.D. 469 (N.D. Ill., 2007), *aff'd*, 571 F.3d 672 (Posner, J.), *cert. denied*, 130 S. Ct. 1504 (2010) (Final Judgment and Order, filed May 2, 2011 approving \$118,750,000 settlement with the Firm acting as sole lead counsel).

^{§§} *In re Natural Gas Commodities Litig.*, 231 F.R.D. 171 (S.D.N.Y. 2005), *petition for review denied*, 05-5732-cv (2d Cir. Aug. 1, 2006) (in other orders in this case, \$100,800,000 in settlements were approved).

^{***} *In re Amaranth Natural Gas Commodities Litig.*, 07 Civ. 6377 (S.D.N.Y.) (\$77,100,000 settlement as co-lead counsel).

^{†††} *In re LIBOR-Based Financial Instruments Antitrust Litig.*, 11-md-2262 (S.D.N.Y.) (\$187,000,000 in settlements as co-lead counsel).

^{‡‡‡} *E.g.*, *NASDAQ*, fn. 2 *supra*; *In re Brand Name Prescription Drugs Antitrust Litig.*, fn. 5 *supra*; *Sullivan, et al. v. DB Investments, Inc., et al.*, 04 Civ. 2819 (SRC) (D.N.J.) (\$546,500,000 in approved settlements, and a pending settlement for \$105,000,000); *In re Auction Houses Antitrust Litig.*, 00 Civ. 0648 (LAK) (S.D.N.Y.) (\$512,000,000 in settlements); *In re Dynamic Random Access Memory (“DRAM”) Antitrust Litig.*, MDL No. 1486 (N.D. Cal.) (\$313,000,000 in settlements); *Precision Associates, Inc. v. Panalpina World Transport*, 08 Civ. 0042 (JG) (VVP) (E.D.N.Y.) (approximately \$490 million in settlements).

settlements have been achieved. *Compare In re TFT-LCD (Flat Panel) Antitrust Litig.*, MDL No. 1827 (N.D. Cal.) (settlements in excess of \$1.1 billion) *with In re IPO Securities Litig.*, 21 MC 92 (S.D.N.Y.) (\$586,000,000 in settlements).

The Firm has been told that it is the only “plaintiffs’ law firm” to successfully bring to trial antitrust claims in the “Mother Court,” the United States District Court for the Southern District of New York. *See* “Degree of Complexity” below.

Finally, the Firm has particularly deep experience with price fixing and manipulation claims involving exchange traded instruments. The Firm obtained, as court-appointed co-lead counsel, what was then the largest class action recovery in the history of the antitrust laws. *NASDAQ*, 187 F.R.D. at 471.

Degree of Difficulty or Complexity. The Firm believes that a very important indicator of an attorney’s experience is the difficulty or complexity of the cases that the attorney has prosecuted. The degree of difficulty or complexity is somewhat subjective. But the Firm is particularly proud not just of its prosecution but, in some instances, trials of various cases that have been recognized by the courts as difficult and complex.

These include difficult federal antitrust cases that have involved both an antitrust claim and a claim under another statute. For one example, after the Department of Justice decided not to bring price fixing claims under the federal antitrust laws, and after the federal agency regulating commodity futures (the Commodity Futures Trading Commission (“CFTC”)) lost a trial seeking to prove attempted manipulation, the Firm tried and won all damages requested in a three-week jury trial on claims for price fixing and manipulation. *Strobl v. New York Mercantile Exch.*, 582 F. Supp. 770 (S.D.N.Y. 1984). The Firm sustained the verdict against motions for *j.n.o.v.* and new trial, and all appeals. *Id. aff’d*, 768 F.2d 22 (2d Cir. 1985), *cert. denied sub nom.*, *Simplot v. Strobl*, 474 U.S. 1006 (1985).

At the successful conclusion of the *Strobl* trial, then-Chief Judge Lloyd F. MacMahon stated to the Firm’s senior partner, Mr. Lovell, and defendants’ counsel, the late Peter Fleming Esq.: “You both tried a very difficult case very well.” *Strobl*, Trial Tr., November 17, 1983, at 1253:4-5.

The Firm successfully conducted another very difficult antitrust trial in the Southern District of New York. Before the last trial session, this trial was interrupted by class action settlements in related actions which produced (in the Firm’s opinion), substantial prompt injunctive relief in the United States’ diamond market as well as substantial monetary relief. §§§

§§§ In *Leider v. Ralfe*, No. 01 Civ. 3137 (S.D.N.Y.), the Firm filed the first class action on behalf of consumers alleging price fixing and monopolization by DeBeers in violation of the antitrust laws. The Firm was named sole class counsel for the certified class. *Leider*, 2003 WL 22339305 (S.D.N.Y. 2003) (certifying for class treatment plaintiffs’ claims for injunctive relief under the Wilson Tariff Act and Sections 1 and 2 of the Sherman Act). Shortly before the last day of the trial of the final injunction inquest, the defendants settled companion class actions and obtained an adjournment of the completion of the *Leider* class action trial. They then settled

The Firm has also received favorable comments from other District Court Judges about the Firm's performance in overcoming the difficulties and complexities of cases. For example, the Firm is proud of the comments it received from one of the great District Court Judges, the Honorable Milton Pollack. Judge Pollack appointed the Firm as sole lead counsel and later took the trouble to comment on its work in a complex class action as follows:

The **unprecedented effort** of Counsel exhibited in this case led to their successful settlement efforts and its vast results. Settlement posed a saga in and of itself and required enormous time, **skill and persistence**. Much of that phase of the case came within the direct knowledge and appreciation of the Court itself. Suffice it to say, the Plaintiffs' counsel did not have an easy path and their services in this regard are best measured in the enormous recoveries that were achieved **under trying circumstances in the face of natural, virtually overwhelming, resistance**. The negotiation of each settlement that was made was at arm's length and exhibited **skill and perseverance on the part of lead counsel** and an evident attempt to gain for the Class the optimum settlement figures that could be reached.

Sumitomo, 74 F. Supp. 2d at 396 (emphasis added).

The Firm believes that the “effort” and “skill and perseverance” that Judge Pollack found that the Firm exhibited in *Sumitomo*, are also what have helped the Firm to obtain 100¢ on the dollar settlements for its clients, successfully try antitrust cases, and otherwise produce favorable results for its clients in very difficult and complex antitrust and other cases.

The Firm has been privileged to repeatedly be appointed to serve as lead counsel or co-lead counsel in class actions involving claims arising under the CEA, federal and/or state antitrust laws and other statutes. For example:

- *Mish Int'l Monetary Inc. v. Vega Cap. London, Ltd., et al.*, No. 20-cv-4577 (N.D.Ill.) (the Firm is prosecuting this case alleging manipulation in violation of the CEA and restraint of trade in violation of the Sherman Act.)
- *Sullivan v. Barclays PLC et al.*, No. 13-cv-2811 (PKC) (S.D.N.Y.) (the Firm was appointed co-lead counsel in this case alleging manipulation in violation of the CEA and restraint of trade in violation of the Sherman Act concerning certain Euribor-based derivatives and financial products. The Firm obtained settlements in excess of \$651 million and involving substantial cooperation).

Leider as well and the case was transferred to the United States District Court for the District of New Jersey, No. 06-cv-00908 (SRC).

This settlement produced prompt substantial injunctive relief for the United States diamond markets as well as a substantial financial settlement, which was contested on appeal even as the injunctive relief remained in effect. The Third Circuit ultimately approved the settlement. *Sullivan v. DB Investments, Inc.*, 667 F.3d 273 (3d Cir. Dec. 20, 2011), *cert. denied*, 132 S. Ct. 1876, *petition for rehearing denied*, 132 S. Ct. 2451 (2012).

- *In re LIBOR-Based Financial Instruments Antitrust Litig.*, 11-md-2262 (S.D.N.Y.) (the Firm was appointed co-lead counsel for exchange trader plaintiffs in this case involving claims for manipulation in violation of the CEA and restraints of trade in violation of the Sherman Act. The Firm obtained settlements of \$187 million).
- *Dennis et al v. JPMorgan Chase & Co. et al*, 1:16-cv-06496-LAK-GWG (S.D.N.Y.) (the Firm served as co-lead counsel where it obtained settlements of \$185,875,000 for the class on claims alleging claims under the Sherman Antitrust Act and the Commodity Exchange Act).
- *In re Term Commodities Cotton Futures Litig.*, 12 Civ. 5126, ECF No. 14, (ALC) (S.D.N.Y.) (the Firm serves as sole lead class counsel in this case alleging manipulation in violation of the CEA concerning what has been reported by the financial press as the “largest ever cotton squeeze.”).
- *Ploss, et al. v. Kraft Foods Group, Inc., et al.*, 15-cv-2937 (N.D. Ill.) (the Firm is co-lead counsel in this case alleging manipulation of wheat futures contracts in violation of the CEA).
- *In re Platinum and Palladium Commodities Litig.*, 10 Civ. 3617, ECF No. 18 (WHP) (S.D.N.Y.) (the Firm was appointed sole lead counsel where it obtained settlements in excess of \$70 million for the class on claims alleging manipulation in violation of the CEA and price fixing in violation of the Sherman Act. Claiming class members have received 185% on each dollar of their “net artificiality paid”).
- *In re Dairy Farmers of America, Inc., Cheese Antitrust Litig.*, 09 Civ. 3690, ECF No. 413 (RMD) (N.D. Ill.) (the Firm was appointed class counsel on a contested motion, and later was appointed as sole lead counsel, where it obtained a settlement of \$46 million for the class on claims alleging manipulation in violation of the CEA and price fixing in violation of the Sherman Act. Claiming class members received approximately 21% their “allowed claim” amount under Section 1 of the plan of allocation where 92.5% of the net settlement proceeds were allocated.).
- *Precision Associates, Inc. v. Panalpina World Transport*, 08 Civ. 0042 (JG) (VVP) (E.D.N.Y.) (the Firm served as co-lead counsel and has obtained settlements of approximately \$490,000,000 on claims alleging conspiracies to fix prices in violation of the Sherman Act).
- *Anwar, et al. v. Fairfield Greenwich Limited, et al.*, 09-cv-0118 (S.D.N.Y.) (the Firm served as co-lead counsel and has obtained settlements from defendants in the aggregate amount of \$265,000,000 on claims alleging that Bernard Madoff manipulated reports of financial results in respect of Fairfield Greenwich securities).
- *In re: Facebook, Inc., IPO Securities and Derivatives Litig.*, 12-md-2389 (S.D.N.Y.) (the Firm served as co-lead counsel in the negligence class action against the NASDAQ defendants, where, in a question of first impression, the Firm successfully argued the defendants were not entitled to self-regulatory organization (“SRO”) immunity for automated trading systems failures. The actions settled for \$26,500,000).
- *In re Potash Antitrust Litigation*, 08-cv-6910, (RC) (N.D. Ill.) (the Firm served

as co-lead counsel for the indirect purchasers and obtained settlements in excess of \$20 million for the class on claims for conspiracy to fix prices).

- *In re Optiver Commodities Litig.*, 08 Civ. 6842 (S.D.N.Y.) (the Firm serves as co-lead counsel and obtained a settlement of \$16.75 million for the class on claims alleging manipulation in violation of the CEA).
- *In re Crude Oil Commodity Futures Litig.*, 11-cv-3600, ECF No. 42 (Feb. 14, 2012) (S.D.N.Y.) (the Firm was appointed co-lead counsel on a contested motion and obtained a proposed settlement of \$16.5 million for the class on claims alleging manipulation in violation of the CEA and monopolization in violation of the Sherman Act).

Development of The Law. The Firm's senior partner, Christopher Lovell, argued in the United States Supreme Court and eight Circuit Courts of Appeal. Also, the Firm briefed, and named partner Gary Jacobson successfully argued, the first appeal in the United States reversing a dismissal of price fixing claims under *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). *See Starr v. Sony BMG Music Entm't*, 592 F.3d 314 (2d Cir. 2010), *cert. denied*, 131 S. Ct. 901 (2011).

When the Firm began, there was considerable precedent holding that antitrust claims were preempted or otherwise not actionable in the commodity futures^{****} and securities^{†††} contexts, and also holding that there was no private right of action under the CEA for manipulation.^{‡‡‡} But the Firm was privileged to do the following:

- (1) In 1981, the Firm authored a successful U.S. Supreme Court brief and made a successful argument in the Supreme Court in the original case which implied a private right of action under the CEA for manipulation, *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353 (1982).
- (2) In 1982, the Firm prepared a statement and a former partner testified before the Congressional Subcommittee concerning what became the express private right of action under Section 22 of the CEA. 7 U.S.C. § 25.^{§§§§} Today, CEA manipulation claims are still brought under this section.
- (3) After prevailing on remand on the federal antitrust claims in the *Strobl* trial, the Firm then successfully briefed and argued on appeal that the federal

**** Compare e.g., *Schaefer v. First Nat. Bank of Lincolnwood*, 509 F.2d 1287 (C.A. Ill. 1975) with *Liang v. Hunt*, 477 F. Supp. 891 (N.D. Ill. 1979) (denying any right of action under the CEA or antitrust laws for soybeans class).

†††† *Gordon v. New York Stock Exchange, Inc.*, 422 U.S. 659 (1975).

‡‡‡‡ *National Super Spuds, Inc. v. New York Mercantile Exch.*, 470 F.Supp. 1256, (S.D.N.Y. 1979) *rev'd sub nom Leist v. Simplot*, 638 F.2d 283 (2d Cir. 1980) (Friendly, J.), *aff'd Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353 (1982).

§§§§ See Statement of Leonard Toboroff, *Before The Sub-committee On Oversight And Investigations of The Committee On Energy And Commerce*, 97th Cong., 2d Sess. 584-603 (Jun. 7, 1982).

antitrust claims were not preempted by the CEA. *Strobl*, 768 F.2d at 28 *supra*.

- (4) In 1997-98, the Firm and its co-lead counsel produced the *NASDAQ* antitrust settlements in the securities market context. This occurred after both the plaintiffs and the defendants had argued to the Department of Justice and other federal agencies about whether these antitrust claims were preempted.

As a result, today, unlike when the Firm started, claims for price fixing under the federal antitrust laws and manipulation under the CEA are well recognized for losses suffered on exchange traded futures contracts.

In addition to *Strobl* and *Starr*, other notable antitrust appeals that the Firm has argued include a case in which Lovell Stewart was appointed Chair of the Executive Committee on price fixing claims in another exchange market case. *In re IPO Antitrust Litig.*, 287 F. Supp. 2d 497 (S.D.N.Y. Nov. 3, 2003), *reversed*, *Billing v. Credit Suisse First Boston Ltd.*, 426 F.3d 130 (2d Cir. 2005) (“epic Wall Street conspiracy”), *rev’d*, 551 U.S. 264, 127 S. Ct. 2383 (2007) (federal antitrust claims preempted). In this complex case, the Firm made the plaintiffs’ unsuccessful argument in the District Court, successful argument to the Court of Appeals, and the unsuccessful argument to the U.S. Supreme Court.

An important part of the law in manipulation and antitrust class actions is that concerning the certification of the class under Rule 23. The Firm co-authored the brief on the class motion in *NASDAQ*. The Court issued an oft-cited decision certifying a very substantial class of seventeen hundred different class securities. *NASDAQ*, 172 F.R.D. 119 (S.D.N.Y. 1997). The Firm has also successfully briefed and argued the **first** petition for review under Fed.R.Civ.P. 23(f) of decisions certifying classes on commodity futures manipulation claims. *In re Sumitomo Copper Litig.*, 182 F.R.D. 85 (S.D.N.Y. 1998); *In re Sumitomo Copper Litig.*, 194 F.R.D. 480 (S.D.N.Y. 2000), *appeal denied*, 262 F.3d 134 (2d Cir. 2001). *See also*:

- *In re Term Commodities Cotton Futures Litig.*, 12 Civ. 5126 (ALC) (S.D.N.Y.), Dkt. No. 646 (23(f) petition denied).
- *Ploss, et al. v. Kraft Foods Group, Inc., et al.*, 15-cv-2937 (N.D. Ill.) Dkt. No. 345 (23(f) petition denied).
- *PIMCO*, 244 F.R.D. 469 (N.D. Ill. 2007), *aff’d* 571 F.3d 672 (7th Cir. July 7, 2009) (Posner J.) *petition for rehearing and rehearing en banc denied* (7th Cir. July 31, 2009) *petition for certiorari denied* 130 S. Ct. 1504 (2010).
- *In re Amaranth Natural Gas Commodities Litig.*, 269 F.R.D. 366 (S.D.N.Y. 2010), *petition for leave to appeal denied sub nom. Amaranth Advisors, LLC, et al. v. Roberto E. Calle Gracey, et al.*, No. 10-4110-mv (2d Cir. Dec. 30, 2010).

- *In re Natural Gas Commodities Litig.*, 231 F.R.D. 171 (S.D.N.Y. 2005), petition for leave to appeal denied sub nom. *Cornerstone Propane Partners, L.P., et al. v. Reliant Energy Services, Inc., et al.*, No. 05-5732-cv (2d Cir. Aug. 1, 2006).

The Firm's senior partner, Christopher Lovell, has successfully tried and argued on appeal three manipulation cases that resulted in significant decisional law: (1) *Strobl, supra*; (2) *In the Matter of Harold Collins, et al.*, CFTC No. 77-15 (C.F.T.C Feb 3, 1984), 1986 WL 66165 (C.F.T.C. Apr. 4, 1986), clarification granted, 1986 WL 289309 (C.F.T.C. Nov. 26, 1986), reversed sub nom., *Stoller v. Commodity Futures Trading Comm'n*, 834 F.2d 262 (2d Cir. 1987); and (3) *Black v. Finantra*, 418 F. 3d 203 (2d Cir. 2005) (reinstating jury verdict finding trade manipulation in securities market).

Bloomberg Markets' magazine has reported about Christopher Lovell as follows:

To classify Pacific Investment Management Co. [formerly managed by CEO and founder Bill Gross] as a large mutual fund family does it little justice. Its \$747 billion in bond assets almost matches the gross domestic product of Australia.

Pimco has found itself up against a formidable opponent in [Christopher] Lovell. What [Bill] Gross is to the world of Bonds, [Christopher] Lovell is to commodities manipulation and price-fixing lawsuits.

Seth Lubove and Elizabeth Stanton, *Pimco Power in Treasuries Prompts Suit*, BLOOMBERG MARKETS, February 20, 2008 (April 2008).

Beyond antitrust and CEA manipulation law, the Firm has been privileged to contribute to the law pertinent to manipulation in other ways. This includes by successfully trying or prosecuting many securities manipulation cases. The Firm successfully tried and obtained a jury verdict for securities manipulation in *Black v. Finantra Capital, Inc., et al.*, 01 Civ. 6819 (S.D.N.Y.) (JSR). Although the District Court vacated the verdict, the Second Circuit Court of Appeals reinstated it, *Black v. Finantra*, 418 F. 3d 203 (2d Cir. 2005), leading to a settlement before the final judgment was entered.

For another example, in *In re IPO Securities Litig.*, 21 MC 92 (S.D.N.Y.), the Firm served as *de facto* co-lead counsel in the consolidated 309 class actions alleging fraud and manipulation under the federal securities laws resulting in a settlement of \$586,000,000. See *In re IPO Securities Litig.*, 671 F.Supp.2d 467, 2009 WL 3397238 at *4, n.35 (S.D.N.Y. October 5, 2009).

Relatedly, the Firm has also been privileged to solve problems and contribute to the development of the law in contexts outside antitrust and manipulation claims. For one example, in *Fiala, et al. v. Metropolitan Life Insurance Company, et al.*, Index No. 601181/00 (Sup. Ct., N.Y. County), the Firm was appointed as Chairman of co-lead counsel in a class action alleging violations of New York Insurance Law. This resulted in the first certified class

and the first settlement under New York's demutualization statute. *See Fiala v. Metropolitan Life Insurance Co.*, 776 N.Y.S.2d 29 (1st Dep't 2004); *Fiala v. Metropolitan Life Insurance Co.*, Slip Op., 2006 WL 4682149 (Sup. Ct., N.Y. County, May 2, 2006) (certifying the class).

For another example, the Firm successfully argued *Grandon v. Merrill Lynch & Co. Inc.*, 147 F.3d 184, 192-3 (2d Cir. 1998), which was the first case to impose a duty on brokers to disclose excessive mark-ups on their sales of bonds.

Individual biographies of the Firm's attorneys who worked on this Action are set forth below.

Christopher Lovell—Partner

Chris graduated from New York University School of Law in 1976, receiving the Vanderbilt Award, and worked at a Wall Street law firm successfully defending antitrust and CEA claims in private and government actions between 1977 and 1980, including a successful defense at trial of charges of manipulation in violation of the Commodity Exchange Act. *In re Harold Collins, et al.*, CFTC No. 77-15, 1984 WL 48079 (CFTC Feb. 3, 1984).

Chris founded the Firm in 1980 and has been privileged to be selected to try more than sixty (60) cases and serve as lead or co-lead class counsel in more than fifty actions.

Chris was the first plaintiffs' lawyer to try successfully antitrust price fixing and manipulation claims in the U.S. District Court for the Southern District of New York. Chris prepared the briefs for the Firm's successful argument in the U.S. Supreme Court that a private right of action for manipulation should be implied under the Commodity Exchange Act. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353 (1982).

Chris is an Advisory Board Member of the Center on Civil Justice at New York University Law School.

Victor E. Stewart—Partner

Victor is Chairman of the Firm's securities law department. Victor was named Valedictorian of St. Marks School Class of 1968, is a 1972 graduate of Yale College (B.A. English), a 1975 graduate of Harvard Business School (M.B.A.) with a concentration in finance and commodity business, a 1979 graduate of the University of Virginia Law School (J.D.), and served on The Virginia Journal of International Law (1977-1979), Articles Editor (1978-1979).

Victor has more than thirty years' experience in the securities field, including securities litigation, public and private securities offerings both as issuers' and underwriters' counsel, arbitrage, mortgage securitization and financial markets analysis.

Victor second chaired the successful trial of antitrust and CEA manipulation claims in *Strobl v. New York Mercantile Exchange*, 582 F. Supp. 770 (S.D.N.Y. 1984), *aff'd*, 768 F.2d 22 (2d Cir. 1985), *cert. denied*, *Simplot v. Strobl*, 474 U.S. 1006, 106 S. Ct. 527 (1985); has

subsequently litigated complex class actions, including acting as the Firm's principal attorney in *In re Initial Public Offering Antitrust Litigation* and *In re Initial Public Offering Securities Litigation*, 2009 WL 3397238 (S.D.N.Y. October 5, 2009) (\$586 million in settlements); *Anwar, et al. v. Fairfield Greenwich Limited, et al.*, 09-cv-0118 (S.D.N.Y.) (\$265 million in settlements); *In re Facebook, Inc., IPO Securities and Derivative Litig.*, MDL 12- 2389 (S.D.N.Y.); and performed substantial work on *In re Sumitomo Copper Litigation*, 96 Civ. 4584 (MP) (S.D.N.Y.); *In re NASDAQ Market-Makers Antitrust Litigation*, MDL No. 123 (S.D.N.Y.); and *Eugenia J. Fiala, et al. v. Metropolitan Life Insurance Company, et al.*, Index No. 00/601181 (Sup. Ct., N.Y. County).

Jody R. Krisiloff—Partner

Jody is a 1976 graduate of Mount Holyoke College, B.A., *summa cum laude*, and a 1979 graduate of Columbia University School of Law, J.D. Jody has more than thirty-five years of experience with commercial litigation in state and federal courts. Prior to specializing in complex litigation and class actions, Jody represented a variety of domestic and international clients in corporate matters. She also litigated and tried one of the first cases involving interpretation of Business Corporation Law §§1118 and 1104-a concerning the buyout of a minority shareholder's interest in four closely-held corporations, *Raskin v. Walter Karl, Inc.*, 129 A.D.2d 642 (2d Dept. 1987).

Jody has worked on class actions in securities, commodity futures, and antitrust cases including serving as the Firm's principal attorney in *In re Microsoft Litig.*, MDL No. 1332 (D.Md.); *Leider v. Ralfe* (DeBeers Diamond Jewelry Antitrust), 01 Civ. 3137 (HB) (S.D.N.Y.); *Eugenia J. Fiala, et al. v. Metropolitan Life Insurance Company, et al.*, Index No. 00/601181 (Sup. Ct., N.Y. County); *In re Avista Securities Litig.*, 02-CV-328 (FVS) (E.D. Wa.).

Jody is now the Firm's principal attorney with Christopher Lovell in *In re LIBOR-Based Financial Instruments Antitrust Litig.*, 11-md-2262 (NRB) (S.D.N.Y.) as well as in several other foreign currency benchmark class actions pending in federal court. Jody also litigated several price fixing and commodity manipulation class actions that have resulted in favorable settlements for plaintiffs including *Precision Assoc., Inc. v. Panalpina World Transport (Holding) Ltd. (Freight Forwarders Antitrust Litig.)*, 08 Civ. 0042 (JG) (E.D.N.Y.), *Anwar, et al. v. Fairfield Greenwich Limited, et al.*, 09-cv-0118 (S.D.N.Y.), and *In re Platinum and Palladium Commodities Antitrust Litig.*, 10 Civ. 3617 (WHP) (S.D.N.Y.).

Outside the Firm, Jody was involved in representing concerned parents petitioning for the creation of the Matrimonial Law Commission, commissioned by former Chief Judge Judith S. Kaye in 2004. Jody testified before that Commission about the need for reform in matrimonial law proceedings in the New York State courts.

Benjamin M. Jaccarino—Partner

Ben is a graduate of Wheaton College, Bachelor of Arts in 2006. He graduated from Suffolk University with a J.D. in 2009. While at Suffolk, Ben received an Oral Advocate award. Ben is admitted to practice in New York, and before the United States District Courts for the Southern and Eastern Districts of New York.

Ben has been with the Firm since 2009 and primarily focuses on commodities manipulation and antitrust class actions. Ben has been involved in a number of commodity

manipulation class actions that have resulted in favorable settlements for plaintiffs.

Ben has represented, on behalf of the co-lead counsel firm, businesses and consumers of freight forwarding services who were harmed by an alleged price fixing conspiracy among numerous freight forwarders, *Precision Associates, Inc. et al., v. Panalpina World Transport (Holding) LTD. et al*, 08-cv-0042 (E.D.N.Y.) (approximately \$490,000,000 in settlements). Ben has played an active role in *Midwest Renewable Energy, LLC v. Archer Daniels Midland Co.* 20-cv-02212 (C.D. Ill.); *Ploss, et al. v. Kraft Foods Group, Inc. et al.*, 15-cv-02937 (N.D. Ill.); *Mish Int'l Monetary Inc. v. Vega Cap. London, Ltd., et al.*, No. 20-cv-4577 (N.D.Ill.); *In re Term Commodities Cotton Futures Litig.*, 12-cv-05126 (ALC) (S.D.N.Y.); *In re Aluminum Warehousing Antitrust Litig.*, 13-md-2481, (S.D.N.Y.); and *In re Zinc Antitrust Litig.*, No. 14-cv-3728 (KBF) (S.D.N.Y.).

EXHIBIT D

| Hourly Billing Rates Submitted by Plaintiff Firms in Connection with Recent Antitrust and Securities Class Action Settlements | | | | | | |
|---|--|----------------------|-----------------------------------|------------------------|---|---|
| Case Name | Law Firm | Partner Hourly Rates | Of Counsel / Counsel Hourly Rates | Associate Hourly Rates | Accountant/ Analyst ¹ Hourly Rates | Paralegal / Paraprofessional Hourly Rates |
| <i>Henry et al. v. Brown Univ. et al.</i> , No. 22 Civ. 125 (N.D. Ill. Apr. 29, 2024) (ECF No. 679) | Berger Montague | \$690 - \$1,157 | \$540 - \$799 | \$530 - \$572 | | \$340 - \$431 |
| | Gilbert Litigators and Counselors | \$1,444 - \$1,458 | \$1,131 - \$1,348 | \$650 | | \$320 |
| | Freedman Normand Friedland LLP | \$864 - \$1,217 | \$890 - \$957 | \$625 - \$862 | | \$239 - \$345 |
| <i>In re James River Group Holdings, Ltd. Securities Litig.</i> , No. 21 Civ. 444 (E.D. Va. Apr. 19, 2024) (ECF No. 126) | Bernstein Litowitz Berger & Grossman LLP | \$1,000 - \$1,350 | \$875 | \$475 - \$700 | \$350 - \$675 | \$325 - \$425 |
| | Robbins Geller Rudman & Dowd LLP | \$780 - \$1,250 | \$730 - \$950 | \$400 - \$600 | \$250 - \$725 | \$325 - \$350 |
| | Saxena White P.A. | \$675 - \$895 | | \$450 - \$650 | \$250 - \$495 | \$250 - \$275 |
| | Cohen Milstein Sellers & Toll PLLC | \$365 - \$985 | \$365 - \$985 | \$365 - \$985 | | \$250 - \$300 |
| <i>Ruben A. Luna v. Carbonite, Inc., et al.</i> , No. 19 Civ. 11662 (D. Mass. Apr. 10, 2024) (ECF No. 188-1) | Robbins Geller Rudman & Dowd LLP | \$785 - \$1,400 | \$460 - \$1,095 | \$375 - \$540 | \$315 - \$775 | \$350 - \$410 |
| <i>In re European Government Bonds Antitrust Litig.</i> , No. 19 Civ. 2801 (S.D.N.Y. Oct. 30, 2023) (ECF No. 423) | Scott+Scott Attorneys at Law LLP | \$1,095 - \$1,595 | \$1,050 - \$1,595 | \$520 - \$695 | \$675 | \$395 - \$415 |
| | DiCello Levitt LLP | \$1,095 - \$1,210 | | \$690 | | \$440 |
| | Lowe Dannenberg, P.C. | \$980 - \$1,395 | \$970 | \$365 - \$970 | | \$195 - \$365 |
| | Berman Tabacco | \$755 - \$1,170 | | \$430 - \$595 | | \$300 - \$510 |
| | Labaton Sucharow LLP | \$825 - \$1,100 | \$650 - \$700 | \$425 - \$525 | \$165 - \$355 | \$335 - \$390 |
| <i>In re LIBOR-Based Financial Instruments Antitrust Litig.</i> , No. 11 MD 2262 (S.D.N.Y. Sept. 8, 2023) (ECF No. 623) | Susman Godfrey L.L.P. | \$275 - \$2,200 | \$275 - \$2,200 | \$275 - \$2,200 | | \$260 - \$350 |
| | Hausfeld LLP | \$420 - \$1,550 | \$420 - \$1,550 | \$420 - \$1,550 | | \$320 - \$350 |
| <i>Sullivan v. Barclays plc et al.</i> , No. 13 Civ. 2811 (S.D.N.Y. July 13, 2023) (ECF Nos. 581, | Lowe Dannenberg, P.C. | \$1,090 - \$1,395 | | \$490 - \$775 | | |
| | Berman Tabacco | \$1,045 - \$1,170 | | | | \$510 |
| <i>In re Google Play Developer Antitrust Litig.</i> , No. 20 Civ. 5792 (N.D. Cal. Mar. 1, 2023) (ECF No. 240-3) | Hausfeld LLP | \$840 - \$1,370 | \$690 - \$1,300 | \$480 - \$580 | | \$350 |
| <i>In re Pork Antitrust Litig.</i> , No. 18 Civ. 1776 (D. Minn. Jan. 24, 2023) (ECF No. 1766) | Hagens Berman Sobol Shapiro LLP | \$750 - \$1,285 | | \$350 - \$650 | | \$325 - \$400 |
| <i>FrontPoint Asian Event Driven Fund, L.P. v. Citibank, N.A., et al.</i> , No. 16 Civ. 5263 (S.D.N.Y. Oct. 10, 2022) (ECF No. 530) | Lowe Dannenberg, P.C. | \$980 - \$1,295 | | \$325 - \$725 | | \$180 - \$340 |
| <i>Sonterra Capital Master Fund, Ltd. v. Barclays Bank Plc et al.</i> , No. 15 Civ. 3538 (S.D.N.Y. Oct. 5, 2022) (ECF No. 282, 283) | Lovell Stewart Halebian Jacobson LLP | \$540 - \$1,210 | \$950 | | \$350 | \$215 - \$220 |
| | Lowe Dannenberg, P.C. | \$1,090 - \$1,395 | | \$325 - \$775 | | \$365 |
| <i>In Re SSA Bonds Antitrust Litig.</i> , No. 16 Civ. 3711 (S.D.N.Y. Dec. 28, 2020) (ECF Nos. 667-1, 668-1) | Robbins Geller Rudman & Dowd LLP | \$765 - \$1,150 | \$595 - \$1,325 | \$425 - \$560 | \$290 - \$430 | \$265 - \$350 |
| | Quinn Emanuel Urquhart & Sullivan, LLP | \$1,260 - \$1,675 | \$1,015 - \$1,050 | \$575 - \$1,025 | | \$310 - \$330 |

¹ Different types of analysts include Forensic Accountant, Research Analyst, Financial Analysts, Economic Analysts, Senior Portfolio Analyst, and Investigators. Analysts are categorized as professional support staff. This categories excludes non-paralegal litigation support such as document clerks and client relations staff.

In re LIBOR-Based Financial Instruments Antitrust Litig. , No. 11 MD 2262 (NRB) (S.D.N.Y.)
Exchange-Based Plaintiffs' Action, No. 11 Civ. 2613 (NRB) (S.D.N.Y.)

| Hourly Billing Rates Submitted by Defense Side Law Firms as Debtors' Counsel | | | | | |
|---|---|----------------------|-----------------------------------|------------------------|---|
| Case Name | Law Firm | Partner Hourly Rates | Of Counsel / Counsel Hourly Rates | Associate Hourly Rates | Paralegal / Paraprofessional Hourly Rates |
| <i>In re SVB Financial Group</i> , No. 23 Bk. 10367 (Bankr. S.D.N.Y. July 29, 2024) (ECF No. 1358) | Sullivan & Cromwell LLP | \$1,975 - \$2,375 | \$1,675 - \$2,375 | \$850 - \$1,575 | \$450 - \$650 |
| <i>In re: Purdue Pharma L.P.</i> , No. 19 Bk. 23649 (Bankr. S.D.N.Y. Feb. 2, 2024) (ECF No. 6149) | Davis Polk & Wardwell LLP | \$2,155 | \$1,615 | \$645 - \$1,465 | \$420 - \$675 |
| <i>In re: Genesis Global Holdco, LLC.</i> , No. 23 Bk. 10063 (Bankr. S.D.N.Y. Feb. 1, 2024) (ECF No. 1222) | Cleary Gottlieb Steen & Hamilton LLP | \$1,505 - \$2,135 | \$1,280 - \$1,485 | \$505 - \$1,180 | \$370 - \$780 |
| <i>In re: SAS AB</i> , No. 22 Bk. 10925 (Bankr. S.D.N.Y. Jan. 31, 2024) (ECF No. 1882) | Weil, Gotschal & Manges LLP | \$1,450 - \$2,095 | \$1,375 - \$1,540 | \$770 - \$1,315 | \$295 - \$530 |
| <i>In re: Inversiones Latin America Power Ltda.</i> , No. 23 Bk. 11891 (Bankr. S.D.N.Y. Jan. 31, 2024) (ECF No. 110) | Greenberg Taurig, LLP | \$1,165 - \$1,645 | \$895 - \$1,1645 | \$615 - \$900 | \$495 - \$650 |
| <i>In re: LTL Management LLC</i> , No. 23 Bk. 12825 (Bankr. D.N.J. Sept. 7, 2023) (ECF No. 1327) | Jones Day | \$562.5 - \$1,800 | \$925 - \$1,275 | \$325 - \$925 | \$212.50 - \$650 |
| <i>In re: MatlinPatterson Global Opportunity Partners II L.P.</i> , No. 21 Bk. 11255 (Bankr. S.D.N.Y. July 17, 2023, ECF No. 970) | Simpson Thacher Bartlett LLP | \$1,320 - \$2,180 | \$1,320 - \$1,565 | \$490 - \$1,420 | \$220 - \$660 |
| <i>In re: Armstrong Flooring, Inc.</i> , No. 22 Bk. 10426 (Bankr. D. Del. May 17, 2023) (ECF No. 1403) | Skadden, Arps, Slate, Meagher & Flom LLP | \$1,960 | \$1,565 - \$1,665 | \$860 - \$1,390 | \$540 - \$625 |
| <i>In re: Pareteum Corp.</i> , No. 22 Bk. 10615 (Bankr. S.D.N.Y. Nov. 11, 2022) (ECF No. 419) | Sidley Austin LLP (Submitted as Unsecured Creditors' Counsel) | \$1,350 - \$1,425 | \$1,225 | \$895 - \$1,100 | \$295 - \$525 |

EXHIBIT E

Compendium of Unreported Cases, Documents, and Transcripts

| | |
|---|-------|
| <i>In re BP Propane Direct Purchaser Antitrust Litig.</i> ,..... | Tab 1 |
| No. 06 Civ. 3541, slip op. (N.D. Ill. Feb. 10, 2010) [ECF No. 209] (fee order) | |
| <i>Citiline Holdings, Inc. v. iStar Fin., Inc.</i> ,..... | Tab 2 |
| No. 08 Civ. 3612, slip op. (S.D.N.Y. Apr. 5, 2013) [ECF No. 127] (fee order) | |
| <i>In re Nat. Gas Commodity Litig.</i> ,..... | Tab 3 |
| No. 03 Civ. 6186, slip op. (S.D.N.Y. May 24, 2006) [ECF No. 445] (fee order) | |
| <i>In re Nat. Gas Commodity Litig.</i> ,..... | Tab 3 |
| No. 03 Civ. 6186, slip op. (S.D.N.Y. June 7, 2010) [ECF No. 618] (plan of allocation) | |
| <i>In re Neurontin Antitrust Litig.</i> ,..... | Tab 4 |
| No. 02 Civ. 1830, slip op. (D.N.J. Aug. 6, 2014) [ECF No. 114] (final judgement) | |
| <i>In re Relafen Antitrust Litig.</i> ,..... | Tab 5 |
| No. 01-12239, slip op. (D. Mass. Apr. 9, 2004) [ECF No. 297] (proposed order and final judgement) | |
| <i>In re Soybeans Futures Litig.</i> ,..... | Tab 6 |
| No. 89 Civ. 7009, slip op. (N.D. Ill. Nov. 22, 1996) [ECF No. 469] (fee brief) | |
| <i>In re Soybeans Futures Litig.</i> ,..... | Tab 6 |
| No. 89 Civ. 7009, slip op. (N.D. Ill. Nov. 27, 1996) [ECF No. 470] (fee order) | |
| <i>In re Steel Antitrust Litig.</i> ,..... | Tab 7 |
| No. 08 Civ. 5214, slip op. (N.D. Ill. Oct. 22, 2014) [ECF No. 539] (fee order) | |

TAB 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BP PROPANE INDIRECT
PURCHASER ANTITRUST LITIGATION

No. 06-C-3541

Honorable James B. Zagel

This Document Relates To:

ALL INDIRECT PURCHASER ACTIONS

**ORDER IN CONNECTION WITH ATTORNEYS FEES, REIMBURSEMENT OF
COSTS AND INCENTIVE AWARD**

This matter came for a duly-noticed hearing on February 10, 2009 (the “Final Approval Hearing”), upon the Indirect Purchaser Plaintiffs’ Motion for Final Approval of Settlement with Defendant BP America, Inc., (“BP”)(the “Motion”) and request for an award of attorneys’ fees, reimbursement of expenses and award of incentive payments all of which was included in the Notice sent and published to members of the Class. There being no objections to Plaintiffs’ Counsel’s request for an award of attorneys’ fees, reimbursement of expenses and award of incentive payments from any member of the Class and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, and a determination having been made that Plaintiffs’ counsel are entitled to be compensated from the common settlement created through their efforts, that Plaintiffs’ counsel are entitled to reimbursement for the expenses necessary and reasonable for the prosecution of this class action and that the named plaintiffs are to be awarded an incentive for their assistance to Plaintiffs’ counsel in the prosecution of this litigation.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiffs' Counsel in the action are hereby awarded attorneys' fees in the amount of \$5,032,500.00, amounting to 33% of the Settlement Fund, plus interest on such amount at the same rate as earned by the Settlement Fund from the date hereof to the date they are actually paid to Lead Counsel. Plaintiffs' Counsel are further awarded reimbursement of expenses (including experts' fees and expenses) in the amount of \$237,243.50. The foregoing awards of fees and expenses shall be paid out of, and shall not be in addition to, the Settlement Fund at the time and in the manner provided in the Stipulation, and shall be paid to Lead Counsel as provided in the Stipulation. Any and all allocations of attorneys' fees and expenses shall be allocated among Plaintiffs' Counsel at the direction of Lead Counsel at its discretion, who shall apportion the fees and expenses based upon their assessment, in its sole discretion, of the respective contributions to the litigation made by each counsel. The Court further declares that any appeal of the award of attorneys' fees and reimbursement of expenses shall not prevent the Settlement from becoming effective.

2. Lead Counsel is granted leave to file a supplemental application for reimbursement of expenses incurred and/or billed subsequent to the date of its pending application including, without limitation, for the fees and expenses of the Claims Administrator. Lead Counsel is also granted leave to file a supplemental petition for fees and for reimbursement of expenses incurred subsequent to the pending petition and which relate to Claims Administration.

3. The named Plaintiffs, Richard Dennison, Stephen Hesano, Michael Withum, Gregory Sydor, Myles Levin, Gateway FS, Inc., Scott Mehrag, Deborah Cassells, James Marcello, Drew Halpern, Donald Mowers, Kurt Nebel, Donald and Jennifer Terry, H. Steven Plaut, David A. Mullins III, David Guin, Craig Ridgway, Anita White and Ideal Bottle Gas, Inc., are awarded an incentive payment in the aggregate sum of \$10,000.00, which amount shall be allocated at the

direction of Lead Counsel at its discretion, based upon their assessment, in its sole discretion, of the respective contributions to the litigation made by each Plaintiff.

Dated: February 10, 2010

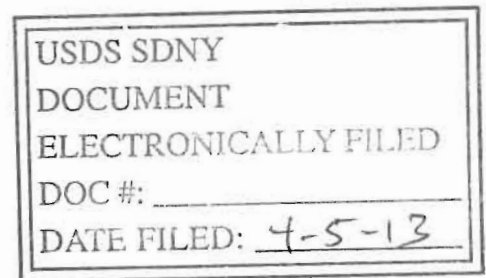
/s/James B. Zigel
JAMES B. ZAGEL
United States District Judge

TAB 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|---|---|------------------------------------|
| _____ | X | |
| CITILINE HOLDINGS, INC., Individually | : | Civil Action No. 1:08-cv-03612-RJS |
| and On Behalf of All Others Similarly Situated, | : | (Consolidated) |
| | : | |
| Plaintiff, | : | <u>CLASS ACTION</u> |
| | : | |
| vs. | : | |
| | : | |
| ISTAR FINANCIAL INC., et al., | : | |
| | : | |
| Defendants. | : | |
| _____ | X | |

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES



This matter having come before the Court on April 5, 2013, on the motion of Co-Lead Counsel for an award of attorneys' fees and expenses in the Litigation, the Court, having considered all papers filed and proceedings conducted herein, having found the settlement of this action to be fair, reasonable and adequate, and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Order incorporates by reference the definitions in the Settlement Agreement dated September 5, 2012 (the "Stipulation") and all capitalized terms used, but not defined herein, shall have the same meanings as set forth in the Stipulation.
2. This Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all Members of the Class who have not timely and validly requested exclusion.
3. The Court hereby awards Co-Lead Counsel attorneys' fees of 30% of the Settlement Fund, plus expenses in the amount of \$234,901.71, together with the interest earned on both amounts for the same time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method.
4. The fees and expenses shall be allocated among Lead Plaintiffs' counsel in a manner which, in Co-Lead Counsel's good-faith judgment, reflects each such counsel's contribution to the institution, prosecution, and resolution of the Litigation.

5. The awarded attorneys' fees and expenses and interest earned thereon, shall immediately be paid to Co-Lead Counsel subject to the terms, conditions, and obligations of the Stipulation, and in particular ¶¶6.2-6.3 thereof, which terms, conditions, and obligations are incorporated herein.

SO ORDERED.

DATED: April 5, 2013
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

TAB 3

5/30/06
ORIGINAL
20 # 445
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

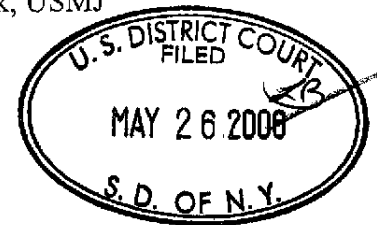
IN RE: NATURAL GAS
COMMODITY LITIGATION

Master File No. 03 CV 6186 (VM) (AJP)

Hon. Victor Marrero, USDJ
Hon. Andrew J. Peck, USMJ

THIS DOCUMENT RELATES TO:
ALL ACTIONS

CLASS ACTION



**ORDER AWARDING REASONABLE ATTORNEY'S FEES AND
REIMBURSING EXPENSES**

UPON the Notice of Proposed Partial Settlement of Action and Hearing on
Proposed Settlements and Proof of Claim herein ("Class Notice");

UPON Class Counsel's Memorandum in Support of an Award of Attorney's Fees
and Reimbursement of Expenses ("Fee Mem."), and the Declaration of Professor Samuel
Issacharoff which is annexed thereto;

UPON the sworn submissions of Class Counsel and the Settlement Administrator
contained in the "Compendium of Declarations of Class Counsel and Settlement
Administrator Fees, Expenses, and the May 19, 2006 Hearing" ("Compendium");

Upon the Declaration of Christopher Lovell, Esq. in Support of Final Approval of
Proposed Settlements and Proposed Fees and Expenses ("Lovell Decl.");

UPON the Objections to Proposed Settlement of Class Action filed by Kevin
Brown ("Objector"); and

UPON all papers and proceedings herein;

MICROFILM

MAY 26 2006 3:00 PM

This Court, having held a hearing on May 19, 2006, hereby finds and orders as follows:

1. Class Counsel have expended substantial time and expense in the prosecution of these consolidated actions since 2003.

2. (a) The professional services performed by Class Counsel include but are not limited to the investigation of the claims and defenses and the preparation of the complaints; substantial motion practice and briefing, including successful opposition to two motions to dismiss; a successful motion to certify a litigation class, and the successful motion to compel production of records from the publishers of natural gas price indices;

(b) Class Counsel's professional services also include, but are not limited to, extensive document, audiotape and other party discovery; extensive party and non-party depositions; extensive non-party document discovery; and separate, successful settlement negotiations with the Settling Defendants culminating in fifteen separate agreements to settle.¹

3. Class Counsel performed the foregoing services on a wholly contingent basis and have not been compensated for these services to date.

¹ The Settling Defendants are: Cinergy Marketing and Trading, L.P.; Cinergy Corp.; CMS Field Services (n/k/a Cantera Gas Co., LLC); CMS Marketing Services & Trading Co. (n/k/a CMS Energy Resource Management Co.); Cook Inlet Energy Supply, LLC; Duke Energy Trading and Marketing, LLC; Dynegy Marketing & Trade (including West Coast Power, LLC); Enserco Energy, Inc.; Entergy-Koch Trading, LP; e-prime, Inc.; MidAmerican Energy Co.; Mico, Inc.; ONEOK Energy Services Company, L.P. (f/k/a ONEOK Energy & Marketing Company, L.P.); ONEOK, Inc.; Reliant Energy Services, Inc.; Sempra Energy Trading; WD Energy Services, Inc.; Western Gas Resources, Inc.; Williams Companies, Inc.; and Williams Energy Marketing and Trading Company.

4. In the Compendium, Class Counsel have attested that they performed a total of 46,052.67 professional hours with a lodestar value of \$16,828,111.40 through March 31, 2006. Lovell Decl. ¶ 154.

5. No one expects a lawyer whose compensation is contingent to charge the same fee as if payment is certain. City of Detroit v. Grinnell Corp., 495 F.2d 448, 471 (1974).

6. Class Counsel have requested an attorneys' fee of one-third of the Settlement Fund, representing a 1.44 risk multiplier based on the time attested to by Class Counsel in the Compendium.

7. At the outset of this commodity futures manipulation action, there was a substantial risk that plaintiffs would not prevail on these claims. The litigation risks in this action are at the high end of the scale, especially because the transactions at issue were made off of the futures market in question.

8. The claims and defenses in this litigation raised and still raise complex questions of law and fact. The quality of the 15 Settling Defendants' counsel and the vigor of their defense were very high.

9. Despite all of the foregoing, Class Counsel have obtained for the settling Class all cash settlements totaling \$72,762,500 plus interest ("Settlement Fund"). The Settlement Fund is only a partial settlement of the claims because the litigation continues with respect to four significant non-settling defendants.

10. The "percentage of the fund" method of awarding fees has been recognized in this Circuit, and District Courts in this Circuit have favored utilizing such method to award fees. E.g., Walmart v. Visa U.S.A., Inc., 396 F. 3d 96, 122 (2d Cir. 2005); Hicks

v. Morgan Stanley, 01 Civ. 10071 (RJH), 2005 WL 2757792, at *8 (S.D.N.Y. Oct. 24, 2005).

11. The Objector argues, based upon the attorney's fee awards in Common Fund Class Actions, 24 Class Action Rep. 169 (2003) ("Median Study"), that the median percentage fee award in all types of class actions approximates 24 percent. But see In re Relafen Antitrust Litigation, 231 F.R.D. 52, 80–82 (D. Mass. 2005) (rejecting an argument based on the Median Study to reduce a one-third fee to the median, and awarding a fee of one-third of \$67,00,000); see also In re Vitamins Antitrust Litig., MDL 1285, 2001 WL 34312839, at *10 (D.D.C., July 16, 2001) (awarding 34.6% of \$365,000,000 where prior criminal antitrust prosecution was present); see unpublished orders attached as Exs. D-F to Fee Mem. (awarding fees of approximately one-third of settlements in varying amounts between \$66,750,000 and \$175,000,000).

12. The Median Study reflects that the median risk multiplier for settlements between \$50 million and \$75 million is 2.75. Due to the extensive amount of discovery and the substantial services performed by Class Counsel against the multiple defendants to secure the fifteen settlements in this action, the risk multiplier from their requested fee is only 1.44. See In re Nasdaq Market-Makers Antitrust Litig., 187 F.R.D. 465, 489 (S.D.N.Y. 1998) (risk multipliers of 3.0-4.5 have become common); In re Lloyd's Am-Trust Fund Litig., 2002 U.S. Dist. LEXIS at 79-81 (S.D.N.Y. 2005) (risk multiplier of 2.09 is at the "lower end of the range of multipliers awarded by courts within the Second Circuit").

13. Class Counsel's expert, Professor Samuel Issacharoff, cites to other studies finding that the median percentage fee is substantially higher than 24%. Issacharoff Decl. ¶ 12-14.


14. The objection regarding fees by the Objector and his "one size fits all" median reasoning are rejected as unsound and overruled in all respects.

15. The Court finds that the fee requested by Class Counsel is fair and reasonable, and that the lodestar/risk multiplier cross-check of 1.44 further supports the reasonableness of the requested fee. Class Counsel are awarded an attorney's fee of one-third of the Settlement Fund.

16. In the Compendium, Class Counsel have attested, in detail, to their \$1,980,876.58 in expenses incurred in prosecuting this action. See also Lovell Declaration ¶ 188-94 (providing further reasons why the expenses incurred were reasonable or necessary to the prosecution of the action).

17. The Court finds that it is reasonable and fair to award reimbursement of Class Counsel's expenses in the amount of \$1,980,876.68.

SO ORDERED this 24th day of May, 2006.


The Honorable Victor Marrero
United States District Judge

U.S. SDNY

DOCUMENT

ELECTRONICALLY FILED

FILED:

FILED: 6-7-10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--------------------------|---|---------------------------|
| -----X | | |
| IN RE: NATURAL GAS | : | Master File No. |
| COMMODITY LITIGATION | : | 03-CV-6186 (VM)(AJP) |
| -----X | | |
| THIS DOCUMENT RELATES TO | : | Hon. Victor Marrero, USDJ |
| ALL ACTIONS | : | |
| -----X | | |

**ORDER ESTABLISHING MODIFIED PLAN OF ALLOCATION
AND AWARDED PLAINTIFFS' COMPENSATION**

UPON the Order Establishing Plan of Allocation and Directing Further Proceedings,
dated March 26, 2010;

UPON the Order, dated April 19, 2010;

UPON the submissions contained in Plaintiffs' Memorandum In Support Of Motion For
Final Approval of the Modified Plan Of Allocation and Awarding Plaintiffs' Compensation,
dated June 3, 2010, the Declaration of Geoffrey M. Horn, Esq., executed on June 3, 2010; and

UPON all prior papers, orders and proceedings heretofore had herein;

IT IS HEREBY ORDERED as follows:

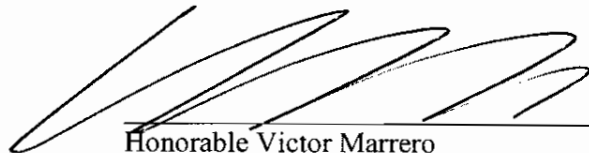
1. The Plan of Allocation, as modified (annexed as Ex. A hereto) ("Plan"), is approved as fair and reasonable in all respects under Rule 23 of the Federal Rules of Civil Procedure ("FRCP").
2. Class Counsel are directed to prepare for payment the checks to all qualified claimants promptly when this Order becomes final, and shall file a list of the qualified claimants and the amount to be paid to each claimant within three business days after the day that this Order becomes final.
3. The named Plaintiffs Titan Energy Partners, L.P. (formerly Cornerstone Propane

Partners, L.P.), Roberto E. Calle Gracey and Dominick Viola are awarded reimbursement of expenses and compensation for their time in an aggregate amount of \$105,000.

4. This Court expressly determines, pursuant to FRCP Rule 54(b), that there is no reason for delay and hereby directs the Clerk to enter this as a final order pursuant to FRCP Rule 54(b).

Dated: New York, New York
June 7, 2010

SO ORDERED.

A handwritten signature in black ink, consisting of several large, sweeping loops and strokes, positioned above a horizontal line.

Honorable Victor Marrero
United States District Judge

EXHIBIT A

MODIFIED PLAN OF ALLOCATION

- I. Additive, Not Alternative Distribution
- II. Defined Terms
- III. 2007 Judgment
- IV. 2006 Judgment
- V. Guaranteed Minimum Payments
- VI. Administrative Convenience Savings Payments
- VII. Miscellaneous

I. Additive, Not Alternative Distribution

Promptly after the Settlement Administrator computes the entitlement of Eligible 2006 and 2007 Settlement Class Members to payments under the terms of this Plan of Allocation or any modified terms that are ordered by the Court, the 2006 and 2007 Net Settlement Funds shall be paid to Eligible Settlement Class Members in accordance with this Plan of Allocation or any Court ordered amendments of this Plan.

Amendments may be made to the Plan by the Court during or after the final approval hearing.

The different methods of payment listed below shall be additive, not alternative. Therefore, the total amount due to each Eligible Settlement Class Member shall be the sum of all the different entitlements for which that Settlement Class Member qualifies.

II. DEFINED TERMS

“2007 Judgment”

On June 15, 2007, the Court directed entry of the final judgment and order of dismissal approving settlements totaling \$28,087,500 with the five remaining defendants¹ in the action. The Settlement Class was defined as:

¹ The five remaining defendants were El Paso Marketing, L.P., Coral Energy Resources, L.P., American Electric Power Co. Inc. (and AEP Energy Services, Inc.), Aquila Energy Marketing Services Corp. (and Aquila Merchant Services, Inc.), and Dominion Resources, Inc.

All persons who purchased, sold, settled or otherwise traded NYMEX Natural Gas Contracts,² as an opening or closing transaction or otherwise, between June 1, 1999 and December 31, 2002, inclusive (“the Class Period”).

Excluded from the Settlement Class are the defendants in the Action, their employees, any parents, subsidiaries, or affiliates of the defendants, any entity in which any of the defendants has or had a controlling interest during the Class Period, and the legal representatives, heirs, successors or assigns of any of the defendants.

“2006 Judgment”

On May 24, 2006, the Court directed entry of the final judgment and order of dismissal approving settlements totaling \$72,762,500 with eighteen defendants³ in the action. The Settlement Class is identical to the Settlement Class certified by the Court on June 15, 2007.

“Eligible 2007 Class Member” is a class member whose proof of claim was timely submitted to participate in the 2007 Judgment Settlement Class and whose documentation

² A “NYMEX Natural Gas Contract” means any commodity futures, basis, swap, or option (or any combination thereof) related to natural gas that was traded, transacted or settled on NYMEX during the Class Period.

³ CMS Field Services (now known as Cantera Gas Company LLC), CMS Marketing Services & Trading Company (now known as CMS Energy Resource Management Company), Cook Inlet Energy Supply, LLC, Cinergy Marketing and Trading, L.P., Duke Energy Trading and Marketing, L.L.C., Dynegy Marketing and Trade, West Coast Power LLC, *e-prime*, inc., Enserco Energy, Inc., Entergy-Koch Trading, LP, MidAmerican Energy Company, Mico, Inc., ONEOK, Inc., ONEOK Energy Services Company, L.P. (formerly ONEOK Energy & Marketing Company, L.P.), Reliant Energy Services, Inc., Sempra Energy Trading Corp., Western Gas Resources, Inc., WD Energy Services, Inc., Williams Power Company, Inc. (formerly Williams Energy Marketing & Trading Co., Inc.), and the Williams Companies, Inc.

has been accepted by the Settlement Administrator as adequate to compute entitlement to a payment under the 2007 Judgment.⁴

“Eligible 2006 Settlement Class Member” is a class member whose proof of claim was timely submitted to participate in the 2006 Judgment Settlement Class and whose documentation has been accepted by the Settlement Administrator as adequate to compute entitlement to a payment under the 2006 Judgment.

“2006 Net Settlement Fund” is the amount remaining at the time of distribution from the 2006 Judgment amount, including all interest earned thereon, and after all approved expenses and deductions.

“2007 Net Settlement Fund” is the amount remaining at the time of distribution from the 2007 Judgment amount, including all interest earned thereon, and after all approved expenses and deductions.

III. 2007 Judgment

A. Distribution. The 2007 Net Settlement Fund shall be distributed to Eligible 2007 Settlement Class Members as follows:

1. 79.0% of the 2007 Net Settlement Fund shall be distributed to Eligible 2007 Class Members on the basis of their futures contract transactions. See B-E below.
2. 4.5% of the 2007 Net Settlement Fund shall be distributed on the basis of the Eligible 2007 Settlement Class Members’ options transactions as follows: (a) 55% on

⁴ If a class member’s proof of claim was determined timely submitted for the 2006 Judgment then it automatically was timely submitted for the 2007 Judgment.

the basis of net options losses during the first five trading days of each month during the Class Period, (b) 22.5% on the basis of net options losses during the entire Class Period, and (c) 22.5% on the basis of net options volume during the first five trading days of each month during the Class Period. See F below.

3. For Eligible 2007 Settlement Class Members who were unable to submit transaction data sufficient to be able to track all futures contract purchases and sales by date, 13.5% of the 2007 Net Settlement Fund shall be distributed according to their Net Futures Volume as defined in Section IV, below.

4. 3.0% of the 2007 Net Settlement Fund shall be paid on the basis of the Eligible 2007 Settlement Class Members' total futures contract volume during the entire Class Period (exclusive of day trading volume) with hedgers' volume multiplied by 39% and swap dealers' volume multiplied by 2.5%.

B. Futures Contract Net Price Artificiality. Each Eligible 2007 Settlement Class Member shall be paid an amount equal to 24% of the 2007 Net Settlement Fund multiplied by a fraction, the numerator of which is such Eligible 2007 Settlement Class Member's Recognized Impact Claim and the denominator of which is the sum total of all Eligible 2007 Settlement Class Members' Recognized Impact Claims.

C. Recognized Impact Claim. Each Eligible 2007 Settlement Class Member's Recognized Impact Claim shall be determined by multiplying the daily amounts of artificiality by such Eligible 2007 Settlement Class Member's purchases and sales on that day and then summing and netting the total artificiality received on all days against the total artificiality paid on all days, as set forth in "1"- "2" below, provided that, for those Eligible 2007 Settlement Class Members who are hedgers, their foregoing "net

artificiality paid" total shall be multiplied by 39% and the resulting product shall be their Recognized Impact Claim and for those Eligible 2007 Settlement Class Members who are swaps dealers, their foregoing net artificiality paid total shall be multiplied by 2.5% and the resulting product shall be their Recognized Impact Claim.

1. For purposes of the calculation of the net artificiality paid in the Recognized Impact Claim in par. B above, the following shall apply.

a. **Positive Impact.** The absolute values of all negative artificiality purchased and all positive artificiality sold by each Eligible 2007 Settlement Class Member shall be added together without regard to their positive or negative signs. The sum total of these absolute values equals each 2007 Eligible Settlement Class Member's Positive Impact received from the 2007 Judgment Defendants' alleged manipulative conduct.

b. **Gross Injury.** Similarly, the absolute values of the positive artificiality purchased and the negative artificiality sold by each Eligible 2007 Settlement Class Member shall be added together without regard to their positive or negative signs. The sum total of these absolute values equals each 2007 Eligible Class Member's Gross Injury incurred from the 2007 Judgment Defendants' alleged manipulative conduct.

c. **Gross Injury Minus Positive Impact Equals Recognized Impact Claim.** Each Eligible 2007 Settlement Class Member's Positive Impact shall then be subtracted from his or her Gross Injury. If the remainder is positive, then this positive number is the Recognized Impact Claim (subject, in the instance of hedgers, to a 61% reduction and, in the instance of swaps dealers, to a 97.5% reduction, as described

above). However, if the remainder is zero or a negative number, then such 2007 Eligible Class Member shall have a Recognized Impact Claim of zero.

2. The daily amounts of artificiality are provided at
www.naturalgascase.com.

D. 1. 38.5% of the 2007 Net Settlement Fund shall be distributed to Eligible 2007 Settlement Class Members who had a net loss on their futures contract transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001 ("Subject Transactions"). This distribution shall be paid pro rata according to the Rescissory Loss on the Subject Transactions. As used herein, Rescissory Loss shall mean 100% of the net losses on the Subject Transactions of non-hedgers, 39% of the Subject Transaction Losses of hedgers, and 2.5% of the net losses of swaps dealer hedgers.

2. 5.1% of the 2007 Net Settlement Fund shall be distributed to Eligible 2007 Settlement Class Members, excluding hedgers and swap dealers, who liquidated futures positions during the first three trading days of December 2000 for a loss.

E. 11.4% of the 2007 Net Settlement Fund shall be distributed to Eligible 2007 Settlement Class Members who had net losses on all futures contract transactions liquidated during the Class Period. This distribution shall be made pro rata on the basis of Rescissory Loss on all such liquidations. As used herein, Rescissory Loss shall mean 100% of the net loss for all non-hedgers, 39% of the net loss for hedgers, and 2.5% of the net loss for swaps dealer hedgers.

F. **Options.** The amount of the payment to each Eligible 2007 Settlement Class Member in respect of options shall be determined as follows. The total amount available for distribution to options claimants shall be calculated by multiplying the total amount of

the 2007 Net Settlement Fund by 4.5% (“the 2007 Options Net Settlement Fund). The 2007 Options Net Settlement Fund shall then be paid to each options claimant by summing the following: (1) a portion of such fund by multiplying 55% of the fund by a fraction the numerator of which is the claimant’s Net Options Losses during the first five trading days of each month and the denominator of which is the sum total of all Net Options Losses during the first five trading days of each month established by all Eligible 2007 Settlement Class Members, (2) a portion of such fund by multiplying 22.5% of the fund by a fraction the numerator of which is the claimant’s Net Options Losses during the entire class period and the denominator of which is the sum total of all Net Options Losses during the entire class period established by all Eligible 2007 Settlement Class Members, and (3) a portion of such fund by multiplying 22.5% of the fund by a fraction the numerator of which is the claimant’s Net Options Volume during the first five days of each month and the denominator of which is the sum total of all Net Options Volume during the entire class period established by all Eligible 2007 Settlement Class Members.

1. **“Net Options Losses.”** as used above, shall be determined by the “cash-in/cash-out” accounting method. Cash paid for the purchase of an option shall be netted against cash received for the sale of that option during the first five trading days of each month during the Settlement Class Period, or during the entire Class Period, respectively. If the cash paid by an options claimant exceeds the cash received by that claimant then the claimant has a Net Option Loss for the first five days of each month or for the entire class period. For purposes of determining eligible Net Option Losses the following shall apply.

a. For hedgers the eligible amount of Net Options Losses shall be 39% of the foregoing; for swaps dealers, the eligible amount shall be 2.5% of the foregoing; and for all other claimants the eligible amount of Net Options Losses shall be 100% of the overall Net Options Losses as determined above.

b. For purposes of determining the Net Options Loss for the first five days of each month or for the entire Class Period, by the cash-in/cash-out method, options that expire, or are assigned or exercised, shall be deemed to have no value. Where the option is converted to a futures contract through assignment or exercise, then the resulting gain/loss will be included in the calculation of gains/losses on futures contracts, provided the futures contract is closed out within the same five day period, or within the entire Class Period. Options that remain open at the end of the entire Class Period shall be assigned their cash in or cash out value at the time they were opened, and no market value shall be assigned for such options as of the end of the Class Period.

2. **“Net Options Volume,”** as used above, shall be the sum total of all options positions traded during the first five days of each month, whether or not the position was traded long or short, or whether or not the position was closed within the five days.

IV. 2006 Judgment

The 2006 Net Settlement Fund shall be distributed to Eligible 2006 Settlement Class Members on the following basis:

1. 95.5% of the 2006 Net Settlement Fund shall be distributed on the basis of the futures contract payments set forth in A below.

2. 4.5% of the 2006 Net Settlement Fund shall be distributed in connection with options as follows: (a) 55% on the basis of the Eligible 2006 Settlement Class Members' Net Options Losses during the first five trading days of each month, (b) 22.5% on the basis of the Eligible 2006 Settlement Class Members' Net Options Losses during the entire class period, and (c) 22.5% on the basis of the Eligible 2006 Settlement Class Members' Net Options Volume during the first five trading days of each month, all as determined in the same manner as under the Options provisions of the 2007 Settlement Fund.

A. Futures Contract Transactions

1. Net Futures Losses

a. 44% of the 2006 Net Settlement Fund shall be distributed on the basis of net losses in futures contracts ("Net Futures Losses") during the first five days of each month during the Settlement Class Period, 25.4% of the 2006 Net Settlement Fund shall be distributed on the basis of net losses in futures contracts ("Net Futures Losses") during the entire class period, and 0.7% of the 2006 Net Settlement Fund shall be distributed on the basis of net losses in futures contracts ("Net Futures Losses") for transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001

b. Subject to "C" below, the amount paid to each Eligible 2006 Settlement Class Member under this "Net Futures Losses" part of the Plan of Allocation shall be the sum of the amounts determined as follows: (1) multiply 44% of the 2006 Net Settlement Fund by a fraction, the numerator of which is that Eligible 2006 Settlement Class Member's Net Futures Losses over the first five days of each month and the denominator of which is the sum of all Eligible 2006 Settlement Class Members' Net Futures Losses

over the first five days of each month, (2) multiply 25.4% of the 2006 Net Settlement Fund by a fraction, the numerator of which is that Eligible 2006 Settlement Class Member's Net Futures Losses over the entire Class Period and the denominator of which is the sum of all Eligible 2006 Settlement Class Members' Net Futures Losses over the entire Class Period, and (3) multiply 0.7% of the 2006 Net Settlement Fund by a fraction the numerator of which is that Eligible 2006 Settlement Class Member's Net Futures Losses for transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001 and the denominator of which is the sum of all Eligible 2006 Settlement Class Members' Net Futures Losses for transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001.

c. Net Futures Losses during the first five trading days of the month shall be computed as follows: The net result of all of a claimant's futures transactions liquidated in the first five trading days of each month during the Class Period. For purposes of these calculations, the determination of the Settlement Administrator shall be final.

d. Net Futures Losses during the entire Class Period shall be determined as the net result of all claimants' futures transactions liquidated during the Class Period.

e. Net Futures Losses for transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001 shall be determined as the net result of all claimants' futures transactions opened on or after June 1, 2000 and closed on or prior to March 31, 2001.

f. For those Eligible 2006 Settlement Class Members who are hedgers, their foregoing Net Futures losses shall be multiplied by 39% and the resulting product shall

be their Net Futures Loss, and for those Eligible 2006 Settlement Class Members who are swap dealers, their Net Futures Losses shall be multiplied by 2.5%.

2. Net Futures Volume During The First Five Trading Days of Each Month During the Class Period

a. 25.4% of the 2006 Net Settlement Fund shall be paid to Eligible 2006 Settlement Class Members based upon their Net Volume of futures trades during the first five days of each month during the Settlement Class Period.

b. Subject to "C" below, the amount paid to each Eligible 2006 Settlement Class Member under this "Net Volume" part of the Plan of Allocation shall be determined as follows. Multiply 25.4% of the 2006 Net Settlement Fund by a fraction the numerator of which is that Eligible 2006 Settlement Class Member's "Net Volume" and the denominator of which is the sum of all Eligible 2006 Settlement Class Members' "Net Volume."

c. For purposes of this calculation, Net Volume during the first five trading days shall be computed by netting all buys executed during each first five day trading period against all sales executed during each first five trading period. For those claimants whose trading records did not contain sufficient data to determine whether the initial transaction for a reported position liquidation occurred during the first five trading days of the month, net volume is calculated as the sum of all futures transactions liquidated during the first five trading days of each month multiplied by .05. For purposes of these calculations, the determination of the Settlement Administrator shall be final.

B. Options

Subject to "C" below, the amount of the payment to each Eligible 2006 Settlement Class Member from the 4.5% of the 2006 Settlement Fund allocated to options shall be determined in precisely the same manner as under the 2007 Settlement Fund.

C. Hedgers

For Hedgers, the eligible amounts of Net Futures Losses, Net Futures Volume and Net Options Losses and Net Options Volume shall be 39% and for swaps dealers the eligible amounts shall be 2.5% of the overall amounts as determined in Parts A and B, above.

V. Guaranteed Minimum Payments

A. 2007 Net Settlement Fund

The above provisions for distribution notwithstanding, all Eligible 2007 Settlement Class Members shall be guaranteed to receive from the 2007 Net Settlement Fund a minimum payment of \$500.00 or the actual amount of their total claimed and accepted futures or options losses, whichever is less.

B. 2006 Net Settlement Fund

The above provisions for distribution notwithstanding, all Eligible 2006 Settlement Class Members shall be guaranteed to receive from the 2006 Net Settlement Fund a minimum payment of \$500.00.

VI. Administrative Convenience Savings Payments

An administrative convenience savings category shall be established in an amount equal to 0.56% of the combined 2006 and 2007 Net Settlement Funds. This category shall be distributed as follows: half to Eligible 2007 Settlement Class Members by

volume of transaction entries only where the Settlement Administrator required no follow-up for documentation or discussion with a 2007 Claimant in order for the claim to become final and half to non-hedge Eligible 2007 Settlement Class Members by volume of option transaction entries only where the Settlement Administrator required no follow-up for documentation or discussion with a 2007 Claimant in order for the claim to become final. An Eligible 2007 Settlement Class Member may only participate in one of the two halves of this administrative convenience category.

VII. Miscellaneous

Again, at or after the Final Approval Hearing, the Court may approve or modify the Proposed Plan without further notice to the Class.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE NATURAL GAS COMMODITY LITIGATION

Master File No. 03 CV 6186 (VM)

THIS DOCUMENT RELATES TO: ALL ACTIONS

Hon. Victor Marrero, USDJ

DECLARATION OF GEOFFREY M. HORN

1. I am a member of the firm of Lowey Dannenberg Cohen & Hart, P.C., Co-Lead Counsel for the class in this case. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, I could and would testify to them. I submit this Declaration in support of Plaintiffs' Motion for Approval of the modified Plan of Allocation and award of compensation to named Plaintiffs.

A. Modifications to the Plan of Allocation

2. Co-Lead Counsel have made modifications to the Plan of Allocation conditionally approved by the Court on March 26, 2010 as follows:

- a. The payout in respect of futures net impact in the 2007 Judgment will be reduced from 40% to 24%.
- b. The amount payable to options will be reduced from 5% to 4.5% in each settlement.
- c. The amount payable to net losses in futures during the first five days in the 2006 Judgment will be reduced from 50% to 44%.
- d. The amount of the swaps dealer hedging deduction will be increased from 92.5% to 97.5% in each settlement.
- e. The amount of the standard hedging deduction will be increased from 60% to 61% in each settlement.
- f. The amount paid to total net futures losses on the 2006 Judgment will be increased from 22.5% to 25.4%.

- g. The amount paid to net futures volume during the first five days will be increased on the 2006 Judgment from 22.5% to 25.4%.
- h. The amount payable to total net futures losses on the 2007 Judgment will be increased from 10.5% to 11.4%.
- i. The amount paid in respect of 2007 Settlement Class Members who were unable to submit transaction data sufficient to be able to track all futures contract purchases and sales by date will be increased from 12.5% to 13.5%.
- j. The payments made in respect of net losses during the sub-period June 1, 2000 to March 31, 2001 will be increased from 32% to 38.5% in the 2007 Judgment.
- k. A new category will be created in which 0.7% of the 2006 Judgment will be paid in respect of net losses during the June 1, 2000 – March 31, 2001 sub-period.
- l. A new category for traders who liquidated positions during December 2000 will be created and 5.1% of the 2007 Judgment will be paid through this category to Eligible 2007 Settlement Class Members, excluding hedgers and swap dealers, who liquidated futures positions during the first three trading days of December 2000 for a net loss.
- m. A new category will be created consisting of total futures trading volume over the Class Period exclusive of day trading volume, and 3.0% of the 2007 Judgment will be paid to this category.
- n. A new category, an administrative convenience savings category, will be created in an amount equal to 0.56% of the combined 2006 and 2007 Net Settlement Funds. This category shall be distributed as follows: half to Eligible 2007 Settlement Class Members by volume of transaction entries only where the Settlement Administrator required no follow-up for documentation or discussion with a 2007 Claimant in order for the claim to become final and half to non-hedge Eligible 2007 Settlement Class Members by volume of option transaction entries only where the Settlement Administrator required no follow-up for documentation or discussion with a 2007 Claimant in order for the claim to become final. An Eligible 2007 Settlement Class Member may only participate in one of the two halves of this administrative convenience category.

B. Impact of Modifications on Plan of Allocation

3. I consulted with the Settlement Administrator, Rust Consulting, to determine the net impact of the proposed modifications of Plan of Allocation.

4. The proposed modifications, excluding the reductions to hedgers and swap dealers, result in a net impact equal to 9.81% of the original proposed allocation amounts for both the 2006 and 2007 Judgments. If the gross total reductions of all hedgers' and swap dealers' recoveries are also considered, the net impact is equal to 11.51% of the original proposed allocation amounts for both the 2006 and 2007 Judgments.

5. Rust Consulting applied the revised hedger and swap dealer deductions after applying all of the other proposed modifications.

C. Compensation for Time and Reimbursement of Expenses of Named Plaintiffs

6. The named plaintiffs in this action are Plaintiffs Titan Energy Partners, L.P. (formerly Cornerstone Propane Partners, L.P.), Roberto E. Calle Gracey and Dominick Viola.

7. Notice was given to the Class and no Class member timely objected to the payment to the three named Plaintiff class representatives for reimbursement of expenses and compensation for their time in an aggregate amount of \$105,000. *See* Notice of Proposed Partial Settlement of Action and Hearing on Proposed Settlements, and Proof of Claim, dated March 20, 2006, at par. 26 and Notice of Proposed Plan of Allocation, Right to Object Thereto, and Hearing Thereon, dated January 12, 2010, at par. 57.

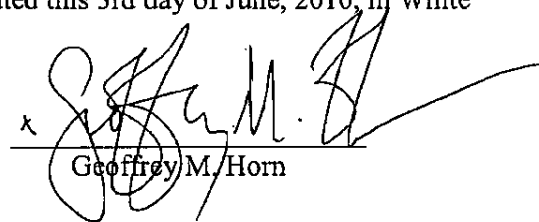
8. At the Final Approval Hearing on March 26, 2010, Class Counsel indicated that Co-Lead Counsel would seek compensation for time and reimbursement of expenses to the named plaintiffs. Transcript of Final Approval Hearing on March 26, 2010, 16: 7-17.

9. No one objected to the compensation for time and reimbursement of expenses to the named plaintiffs at the Final Approval Hearing on March 26, 2010 or thereafter. No one has purported to make a tardy objection to the compensation and reimbursement to the named plaintiffs.

10. Each of the named plaintiffs, including multiple representatives for the named plaintiff Titan, appeared for depositions; provided voluminous document discovery (*e.g.* plaintiff Titan produced hundreds of thousands of pages of documents and electronic e-mail and trading databases); have actively served as plaintiffs for several years since the inception of this action; have met with Co-Lead Counsel; and have taken other steps to represent the Class herein.

11. Without the named plaintiffs in this action there would be no recovery for the Class.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed this 3rd day of June, 2010, in White Plains, N.Y.


Geoffrey M. Horn

TAB 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

In re Neurontin Antitrust Litigation

THIS DOCUMENT RELATES TO:

**LOUISIANA WHOLESALE DRUG
COMPANY, INC., MEIJER, INC. and
MEIJER DISTRIBUTION, INC., on behalf of
themselves and all others similarly
situated,**

Plaintiffs,

v.

**PFIZER, INC. and WARNER-LAMBERT
CO.,**

Defendants.

Civil Action No. 02-1830

Civil Action No. 02-2731

**FINAL JUDGMENT AND ORDER OF DISMISSAL APPROVING
PROPOSED CLASS SETTLEMENT AND DISMISSING ACTIONS**

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and in accordance with the terms of the Settlement Agreement dated April 17, 2014, it is hereby ORDERED as follows:

1. This Final Judgment and Order of Dismissal hereby incorporates by reference the definitions in the Settlement Agreement among the parties to these actions on file with this Court, and all capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Settlement Agreement.
2. The Court has jurisdiction over these actions and over each of the parties and over

all members of the Class.

3. The notice of settlement (in the forms presented to this Court as Exhibits B-1 and B-2 to the Settlement Agreement) (the “Notice”) directed to the members of the Class, constituted the best notice practicable under the circumstances. In making this determination, the Court finds that the Notice provided for individual notice to all Class members who were identified through reasonable efforts. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that the Notice provided Class members due and adequate notice of the Settlement, the Settlement Agreement, these proceedings and the rights of Class members to object to the Settlement.

4. The Court held a preliminary fairness hearing on May 1, 2014 and a final fairness hearing on July 31, 2014, regarding the reasonableness of the parties’ settlement. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement, and finds that the Settlement is, in all respects, fair, reasonable and adequate to Class members. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.¹

¹ The Court has fully considered the *Girsh* factors and finds that, considered together, the factors overwhelmingly favor approval of the Class settlement. *Girsh v. Jepsen*, 521 F.2d 153, 157 (3d Cir. 1975); *see also In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 323 (3d Cir. 1998). As the Court indicated at the fairness hearing, every issue in this complex antitrust case has been vigorously litigated by both sides for over twelve years. Class Plaintiffs faced significant risks in taking the case to trial, which this Court has discussed in its opinions on dispositive motions and recent status conferences. This Court agrees with counsel’s position, as discussed in the extensive briefing and supporting affidavits, that the Settlement Agreement is fair and reasonable for all Class members. The value of the settlement to the Class is confirmed by the fact that no members of the Class of identifiable, sophisticated business

5. The Court hereby approves the Plan of Allocation of the Settlement Fund as proposed by Class Counsel (the “Plan”), which was summarized in the Notice of Proposed Settlement. The Claims Administrator is directed to distribute the net Settlement Fund as provided in the Plan.

6. The Court has certified a Class consisting of “[a]ll persons or entities in the United States that purchased Neurontin from Pfizer at any time during the period of December 11, 2002 through August 31, 2008 and who have purchased generic gabapentin. Excluded from the Class are Defendants and each of their respective parents, employees, subsidiaries, affiliates, and franchisees, and all government entities.”

7. Also excluded from the Class are CVS Pharmacy Inc., Caremark, L.L.C., Rite Aid Corporation, Rite Aid HDQTRS Corp., Walgreen Co., American Sales Co, Inc., HEB Grocery Co. LP, Safeway Inc., SuperValu Inc., and The Kroger Co., in their own right as direct purchasers of Neurontin from Pfizer and as assignees limited to their purchases of Neurontin from Class members.

8. The Court has found that the Class meets all the requirements of Fed. R. Civ. P. 23. The Class, made up of sophisticated business entities, had a full and fair opportunity to request exclusion at the time of class certification and, therefore, there is no reason for the Court to afford a new opportunity to individual Class members to request exclusion who had an earlier opportunity to request exclusion but did not do so.

entities have objected, rather many have explicitly approved of the Settlement.

9. The Court has appointed Louisiana Wholesale Drug company, Inc., Meijer, Inc., and Meijer Distribution, Inc. as class representatives (the “Class Representatives”).

10. The Court has found that Co-Lead Counsel, listed below, along with other Class Counsel, have fairly and adequately represented the interests of the Class and satisfied the requirements of Fed. R. Civ. P. 23(g):

Bruce E. Gerstein, Esq.
GARWIN GERSTEIN & FISHER LLP
88 Pine Street, 10th Floor
New York, NY 10005

Richard J. Kilsheimer, Esq.
KAPLAN FOX & KILSHEIMER LLP
850 Third Avenue, 14th Floor
New York, NY 10022

11. The following actions are hereby dismissed with prejudice, as provided in the Settlement Agreement, and without costs, except as provided for herein and in the Settlement Agreement:

- *Louisiana Wholesale Drug Company, Inc., et al. v. Pfizer, Inc. and Warner-Lambert*, No. 2:02-cv-01830-FSH (D.N.J.)
- *Meijer, Inc., et al. v. Pfizer, Inc. and Warner-Lambert*, No. 2:02-cv-02731 (D.N.J.)

12. Each of the foregoing dismissals shall become effective upon the date the Settlement becomes final in accordance with paragraph 4 of the Settlement Agreement.

13. Upon this Settlement becoming final in accordance with paragraph 4 of the Settlement Agreement, Defendants and their past, present and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory

boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the “Released Parties”) are and shall be unconditionally, fully and finally released and forever discharged from all manner of claims, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys’ fees, known or unknown, suspected or unsuspected, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Class (including any of their past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such) (the “Releasers”), whether or not they object to the Settlement and whether or not they make a claim upon or participate in the Settlement Fund, ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to any conduct alleged or asserted in any of Plaintiffs’ complaints filed in this Class Action, relating to any alleged delay in the marketing, sale, manufacture, pricing, or purchase of, or the enforcement of intellectual property related to Neurontin or its generic equivalents, prior to the date hereof, except the Settlement does not release any claims between Plaintiffs, members of the Class and the Released Parties concerning product liability, breach of contract, breach of warranty or personal injury (the “Released Claims”).

14. In addition, Plaintiffs and each Class member, on behalf of themselves and all

other Releasers, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by § 1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Class member may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this paragraph 13, but each Class member hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or un-asserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Each Class member also hereby expressly waives and fully, finally and forever settles, releases and discharges any and all claims it may have against any Released Party under § 17200, *et seq*, of the California Business and Professions Code or any similar, comparable or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are expressly incorporated into the definition of Released Claims.

15. The releases set forth in paragraphs 13 and 14 of this Order shall not release any claims between Plaintiffs, Class members and the Released Parties concerning product liability,

breach of contract, breach of warranty, or personal injury.

16. Upon consideration of Class Counsel's petition for fees, costs and expenses, Co-Lead Counsel, on behalf of all counsel for the Class, are hereby awarded attorneys' fees in the amount of 33⅓% of the Settlement Fund and costs and expenses totaling \$2,213,537.35, together with a proportionate share of the interest thereon from the date the funds are deposited in the Escrow Account until payment of such attorneys' fees, costs and expenses, at the rate earned by the Settlement Fund, to be paid solely from the Settlement Fund and only if and after the Settlement becomes final in accordance with paragraph 4 of the Settlement Agreement. Upon consideration of Class Counsel's petition for incentive payments for Plaintiffs in these actions, LWD and Meijer are each hereby awarded an incentive award in the amount of \$100,000.00, to be paid solely from the Settlement Fund, and only if and after the Settlement becomes final in accordance with paragraph 4 of the Settlement Agreement. Co-Lead Counsel shall allocate and distribute such attorneys' fees, costs and expenses among the various Class Counsel that have participated in this litigation. Co-Lead Counsel shall distribute such incentive awards to the Plaintiffs as provided herein. The Released Parties (as defined in paragraph 10 of the Settlement Agreement) shall have no responsibility for, and no liability whatsoever with respect to, any payment or disbursement of attorneys' fees, expenses, costs or incentive awards among Class Counsel and/or Plaintiffs, or with respect to any allocation of attorneys' fees, expenses, costs or incentive awards to any other person or entity who may assert any claim thereto. The attorneys' fees, costs and expenses, and incentive award authorized and approved by this Final Judgment and Order shall be paid to Co-Lead Counsel within five (5) business days after this

Settlement becomes final pursuant to paragraph 4 of the Settlement Agreement and in accordance with the terms of the Settlement Agreement and the Escrow Agreement. The attorneys' fees, costs and expenses, and incentive awards authorized and approved by this Final Judgment and Order shall constitute full and final satisfaction of any and all claims that Plaintiffs and any Class member, and their respective counsel, may have or assert for reimbursement of fees, costs, and expenses, and incentive awards, and Plaintiffs and members of the Class, and their respective counsel, shall not seek or demand payment of any fees and/or costs and/or expenses and/or incentive awards from any source other than the Settlement Fund. The Court retains exclusive jurisdiction over the Settlement and the Settlement Agreement as described therein, including the award of attorneys' fees to Plaintiffs' Counsel, the reimbursement of expenses, the award of incentive payments to Plaintiffs, and the administration and consummation of the Settlement, and over this Final Judgment and Order.

17. The Court finds that this Final Judgment and order adjudicates all of the claims, rights and liabilities of the parties to the Settlement Agreement (including the members of the Class), and is final and shall be immediately appealable. Neither this Order nor the Settlement Agreement nor any other Settlement-related document shall constitute any evidence or admission of liability by Defendants or any other Released Party, nor shall either the Settlement Agreement or this Order or any other Settlement-related document be offered in evidence or used for any other purpose in this or any other matter or proceeding except as may be necessary to consummate or enforce the Settlement Agreement of the terms of this Order or if offered by any Released Party in responding to any action purporting to assert Released Claims.

18. Class Counsel for the Direct Purchaser Class Plaintiffs have moved for an award of attorneys' fees, reimbursement of expenses, and incentive awards for class representatives. (Doc. No. 749). Pursuant to Rule 23(h) of the Federal Rules of Civil Procedure, and pursuant to the factors for assessing the reasonableness of a class action fee request as set forth in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000), this Court makes the following findings of fact and conclusions of law with respect to Class Counsel's request for an award of attorneys' fees, reimbursement of expenses, and incentive awards for Class Representatives:

19. The Settlement of \$190,416,438.36 million (the "Settlement Fund"), representing the agreed-upon \$190 million plus 1% per annum interest that had accrued from March 14, 2014 (the date that the parties first orally agreed to the Settlement's terms) to June 2, 2014 (the date that defendants deposited such amount into an escrow account held in trust by UBS AG that is earning interest for the benefit of the Class), plus interest on the Settlement Fund from June 2, 2014, confers a monetary benefit on the Direct Purchaser Class that is substantial, both in absolute terms and when assessed in light of the risks of establishing liability and damages in this case. The Settlement was reached following negotiations held in good-faith and in the absence of collusion, with the aid of a highly-renowned mediator, over the course of three mediation sessions, covering six days.

20. The Court-approved Notice of Proposed Settlement of Class Action (Doc. No. 727) advised Class Members that Class Counsel intended to move for an award of attorneys' fees in an amount up to 33-1/3% of the gross Settlement Fund (including the interest accrued thereon), plus reimbursement of reasonable costs and expenses incurred in the prosecution of this action.

21. Class Counsel have moved for an award of attorneys' fees in the amount of 33-1/3% of the gross Settlement Fund (including the interest accrued thereon), plus reimbursement of reasonable costs and expenses incurred in the prosecution of this action, which such motion has been on the docket and publicly available since July 1, 2014.

22. In prosecuting this action, Class Counsel expended over 60,570 hours of uncompensated time, and incurred substantial out of pocket expenses, with no guarantee of recovery. Class Counsel's hours were reasonably expended in this complex case that was vigorously litigated for over twelve years, and their time was expended at significant risk of nonpayment.

23. No Class Members objected to Class Counsel's fee request. In fact, as described below, the reaction of the Class has been entirely positive and supportive of the Settlement generally and Class Counsel's requested fee award specifically.

24. The Settlement achieved for the benefit of the Direct Purchaser Class was obtained as a direct result of Class Counsel's skillful advocacy. This is confirmed by the entirely positive reaction of the Class Members to the Settlement and Class Counsel's request for a fee award of 33-1/3% of the Settlement. Outside antitrust counsel for the country's three largest pharmaceutical distributors, who made in excess of 70% of the branded and generic Neurontin purchases at issue in this case, wrote to the Court on behalf of their clients to express their clients' support for the Settlement and Class Counsel's request for an award of one-third of the Settlement amount. *See* Exhibits 2-4 to the Joint Declaration of Bruce E. Gerstein and Richard J. Kilsheimer in Support of Direct Purchaser Class Plaintiffs' Motions for Final Approval of Settlement and for

an Award of Attorneys' Fees, Reimbursement of Expenses and Incentive Awards to Class Representatives (the "Joint Declaration" or "Joint Decl.," Doc. No. 748-5) (Doc. Nos. 748-7 – 748-9) (letters to the Court from outside counsel to AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation). In addition, a number of other Class Members wrote directly to the Court stating their belief that Class Counsel's requested fees are justified in light of the time and expense that Class Counsel expended prosecuting and favorably resolving this complex litigation. *See* Exhibits 5-12 to the Joint Declaration (Doc. Nos. 748-9 – 748-17) (letters from Class Members Burlington Drug Company, Inc., Dakota Drug, Inc., Drogueria Betances, Inc., King Drug Company of Florence, Inc., Miami-Luken, Inc., Prescription Supply, Inc., J M Smith Corporation d/b/a Smith Drug Co., and Value Drug Co.). All of the above-mentioned Class Members who have written to the Court to express their support for the Settlement and Class Counsel's fee request account for approximately 93% of the purchases at issue in this litigation.

25. The "percentage-of-the-fund" method is the proper method for calculating attorneys' fees in common fund class actions in this Circuit. *See, e.g., In re Rite Aid Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005). The Court concludes that that the fees requested by Class Counsel are comparable to recent awards in similar cases in the Third Circuit and elsewhere, including direct purchaser class actions similarly alleging anticompetitive practices in the pharmaceutical industry.

26. The Court finds that Class Counsel's request for a 33-1/3% fee is consistent with what would have been negotiated for a contingent-fee case of this complexity. For example, the current and former presidents of class representative Louisiana Wholesale Drug Co., Inc. ("LWD")

attested that “had LWD retained the law firms and/or attorneys . . . to represent it in an individual action in this complex litigation, LWD would have retained these same attorneys based on a 33 1/3% contingency fee in the event of settlement or compromise without trial and/or based on a 40% contingency fee in the event of trial, with any applicable contingency fee percentage computed in addition to out-of-pocket expenses.” Exhibit 13 to the Joint Decl., Declaration of Chad Gielen, President/Chief Executive Office of LWD, at ¶ 6, and Exhibit 14 to the Joint Decl., Declaration of Gayle White, former President and General Manager of LWD, at ¶ 3. Furthermore, the letters from the Class Members supporting Class Counsel’s fee award is further evidence that the 33-1/3% fee award is consistent with what those entities would have assented to had they retained Class Counsel in private litigation.

27. As detailed in Class Counsel’s affidavits, a one-third fee award would equate to a lodestar multiplier of approximately 1.99. The Court concludes that, based on recently-approved multipliers in other Third Circuit antitrust class actions alleging similar anticompetitive practices in the pharmaceutical market, the multiplier requested here is well within the acceptable range. *See, e.g., In re Flonase Antitrust Litigation*, 951 F. Supp. 2d 739, 750 (E.D. Pa. 2013) (approving 33 1/3% fee award of \$150 million settlement that amounted to multiplier of 2.99).

28. In light of the factors and findings described above, the Court finds that the requested 33-1/3% fee award is within the applicable range of reasonable percentage fund awards.

29. The Court finds this fee award is reasonable pursuant to Federal Rule of Civil Procedure 23(h). The Court orders that Class Counsel request for attorneys’ fees of 33-1/3% of the Settlement Fund, which equates to \$63,472,146.12, plus one-third of the interest earned on the

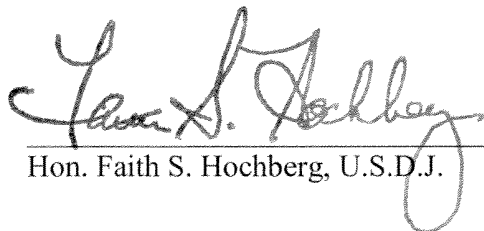
Settlement Fund from June 2, 2014 (the date of funding of the Settlement Fund) to the date of payment, at the same net interest rate earned by the Settlement Fund, is granted.

30. Further, the Court orders that Class Counsel is awarded \$2,213,537.35 out of the Settlement Fund to reimburse them for the expenses incurred in prosecution of this case, which such expenses the Court finds to be fair and reasonably incurred to achieve the benefits to the Direct Purchaser Class obtained by the Settlement.

31. Further, the Court orders payment of two incentive awards of \$100,000 each for each of the Class Representatives – one incentive award of \$100,000 to LWD and one incentive award to “Meijer”, which consists of Meijer, Inc. and Meijer Distribution, Inc. (together, “Meijer”) – for their active participation and assistance in the prosecution of this case, including responding to document requests and interrogatories, appearing for deposition and keeping apprised of the progress of the case, including settlement efforts. The Class Representatives’ efforts contributed to the benefits conferred upon the Class through the Settlement. In addition, no Class Member has objected to the awarding of these incentive awards. Moreover, the three largest pharmaceutical distributors have specifically supported granting incentive awards in the requested amounts. *See* Exhibits 2-4 to the Joint Decl. (Doc. Nos. 748-7 – 748-9) (letters to the Court from outside counsel to AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation).

IT IS SO ORDERED.

Dated: 8-6-14


Hon. Faith S. Hochberg, U.S.D.J.

TAB 5

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X
In re: RELAFEN ANTITRUST LITIGATION : MASTER FILE
: NO. 01-12239-WGY
-----X

THIS DOCUMENT RELATES TO: :
: *Louisiana Wholesale Drug Co., Inc., v.* :
: *Smithkline Beecham Corporation, d/b/a* :
: *GlaxoSmithKline, and Smithkline Beecham PLC,* :
: No. 02-11242; *Meijer, Inc., v. Smithkline Beecham* :
: *PLC, et al.,* No. 01-12239. :
-----X

~~PROPOSED~~ ORDER AND FINAL JUDGMENT

This Court, having considered (a) Direct Purchaser Class Plaintiff's Motion for Approval of the Settlement Agreement between Direct Purchaser Class Plaintiff Louisiana Wholesale Drug Co., Inc. ("Louisiana Wholesale" Or "Plaintiff"), and defendants SmithKline Beecham Corporation d/b/a GlaxoSmithKline and SmithKline Beecham PLC (collectively, "GSK" and/or "Defendants"); (b) the proposed Plan of Allocation; and (c) Class Counsel's Motion for Attorney Fees, Reimbursement of Expenses and an Incentive Award For the Named Plaintiff; and having held a hearing on April 9, 2004; and having considered all of the submissions and arguments with respect thereto, and otherwise being fully informed and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Order and Final Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings set forth in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the Class Actions and over all parties to the Class Actions, including all Class members.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court has certified a Class as follows:

All persons or entities in the United States or its territories who purchased Relafen® directly from SmithKline Beecham Corporation d/b/a GlaxoSmithKline and/or GlaxoSmithKline, PLC (collectively the "defendants" or "SmithKline") at any time during the period of September 1, 1998 through December 31, 2002.

The Class excludes governmental entities, and the defendants and their officers, directors, management, employees, subsidiaries, and affiliates. Also excluded from the Class are the claims brought by and/or assigned to entities which already independently sued GSK in the actions styled *CVS Meridian, Inc., and Rite Aid Corp., v. SmithKline Beecham Corp., et al.*, No. 03-10040-WGY and *Walgreen Co., et al., v. SmithKline Beecham Corp., et al.*, No. 02-10588-WGY ("the *CVS* and *Walgreen* Actions"). It also excludes parties who purchased Relafen® during this period but only from sources other than the defendants, such as from wholesalers or retailers.

4. Notice of the Settlement has been given to the Class in an adequate and sufficient manner, constituting the best notice practicable, and complying in all respects with Rule 23 of the Federal Rules of Civil Procedure and due process.

5. No entities other than the plaintiffs in the *CVS* and *Walgreen* Actions have excluded themselves from the Class and for whom this order and judgment has no force and effect.

6. Pursuant to Rule 23, the Court hereby finally approves in all respects the Settlement as set forth in the Settlement Agreement (the "Settlement") and finds that the Settlement, the Settlement Agreement, and Plan of Allocation, are, in all respects fair, reasonable and adequate, and in the best interests of the Class. The Court further approves the establishment of the Settlement Fund upon the terms and conditions set forth in the Settlement Agreement and the Escrow

Agreement. The Parties are hereby directed to carry out the Settlement in accordance with its terms and provisions.

7. The Class Actions are hereby dismissed with prejudice and without costs to any party, except as otherwise provided herein.

8. (a) Upon the Settlement becoming final according to the provisions of paragraph 5 of the Settlement Agreement, Defendants and their present and former parents, subsidiaries, divisions, affiliates, stockholders, officers, directors, employees, agents, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") shall be released and forever discharged from all manner of claims, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys' fees, known or unknown, suspected or unsuspected, in law or equity, that Plaintiff or any member or members of the Class who have not timely excluded themselves from the Class Actions (as used throughout this paragraph, references to the "Class," "members of the Class" or "Class members" includes any of their past, present or future officers, directors, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, subsidiaries, partners, heirs, executors, administrators, purchasers, predecessors, successors and assigns, acting in their capacity as such), whether or not they object to the settlement and whether or not they make a claim upon or participate in the Settlement Fund, ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of any conduct, events or transactions, prior to the date hereof, alleged or which could have been alleged in the Class Actions relating to the marketing, sale, manufacture, pricing or purchase of, or the enforcement of intellectual

property related to, the drug Relafen® or any form of nabumetone (the "Released Claims"). No Class member shall hereafter, seek to establish liability against any Released Party based, in whole or in part, on any of the Released Claims.

(b) In addition, each Class member hereby expressly waives and releases, upon the Settlement Agreement becoming final, any and all provisions, rights, benefits conferred by § 1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Class member may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this paragraph, but each Class member hereby expressly waives and fully, finally and forever settles and releases, upon the Settlement Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of this paragraph whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Each Class member also hereby expressly waives and fully, finally and forever settles and releases any and all claims it may have against Defendants under § 17200, *et seq.*, of the California Business and Professions Code, which claims are expressly incorporated into this paragraph.

(c) Notwithstanding the above provisions of this paragraph, the Class members are releasing only the Released Parties that such Class members have released pursuant to this paragraph, and the Class members are not releasing or otherwise affecting in any way any rights a

Class member has or may have against any other party or entity whatsoever other than the Released Parties with respect to the Released Claims pursuant to this paragraph. In addition, the releases set forth in this paragraph shall not release any claims arising in the ordinary course of business between Class members and the Released Parties concerning product liability, breach of contract, breach of warranty, or personal injury.

9. The Court finds that the Settlement Fund is a "qualified settlement fund" as defined in section 1.468B-1(c) of the Treasury Regulations in that it satisfies each of the following requirements:

(a) The Settlement Fund is established pursuant to an order of this Court and is subject to the continuing jurisdiction of this Court;

(b) The Settlement Fund is established to resolve or satisfy one or more claims that have resulted or may result from an event that has occurred and that has given rise to at least one claim asserting liabilities; and

(c) The assets of the Settlement Fund are segregated from other assets of GSK, the transferor of payments to the Settlement Fund.

10. Under the "relation-back" rule provided under section 1.468B-1(j)(2)(i) of the Treasury Regulations, the Court finds that:

(a) The Settlement Fund met the requirements of paragraphs (9)(b) and (9)(c) of this Order prior to the date of this Order approving the establishment of the Settlement Fund subject to the continued jurisdiction of this Court; and

(b) GSK and the Claims Administrator may jointly elect to treat the Settlement Fund as coming into existence as a "qualified settlement fund" on the later of the date the Settlement Fund

met the requirements of paragraphs (9)(b) and (9)(c) of this Order or January 1 of the calendar year in which all of the requirements of paragraph (9) of this Order are met. If such a relation-back election is made, the assets held by the Settlement Fund on such date shall be treated as having been transferred to the Settlement Fund on that date.

11. Nothing in this Order or the Settlement Agreement, shall be construed as an admission in any action or proceeding of any kind whatsoever, civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or authority, present or future, by Defendants including, without limitation, that Defendants have engaged in any conduct or practices that violate any antitrust statute or other law.

12. Class Counsel has moved pursuant to Rules 23(h), 54(d) and 52(a) of the Federal Rules of Civil Procedure for an award of attorney fees and reimbursement of expenses. Pursuant to Rules 23(h)(3) and 52 (a) this Court makes the following findings of fact and conclusions of law:

- (a) that the Settlement confers a substantial benefit on the Class;
- (b) that the value conferred on the Class is immediate and readily quantifiable, upon this Judgment becoming final, each Class member will receive a substantial cash payment that represents a significant portion of the total overcharge allegedly incurred as a result of Defendants' conduct;
- (c) that Class Counsel vigorously and effectively pursued the Class members' claims before this Court in this highly complex case;
- (d) that the Settlement was obtained as a direct result of Class Counsel's skillful advocacy;

(e) that the Settlement was reached following a mediation presided over by the Honorable A. David Mazzone, and was negotiated in good-faith and in the absence of collusion;

(f) that during the prosecution of these Class Actions, Class Counsel incurred expenses in the amount of \$ 1,799,023.24 which included costs for expert witnesses and other expenses which I find to be reasonable and necessary to the representation of the Class and reasonable;

(g) that Class members were advised in the “Notice of Proposed Settlement of Class Action, Class Counsel’s Motion for Attorneys’ Fees, and Hearing Regarding Settlement” approved by this Court that Class Counsel intended to move for an award of attorneys’ fees in an amount up to 33⅓% of the Settlement Fund (plus interest thereon), plus reimbursement of reasonable costs and expenses incurred in the prosecution of this action.

(h) that no member of the Class, which is composed of less than 70 business entities, has objected to the award of attorneys’ fees or expenses;

(i) that counsel who recover a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole. Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980); Blum v. Stenson, 465 U.S. 866, 900 n.16 (1984);

(j) that use of the percentage of fund method in common fund cases is the “prevailing praxis” in this Circuit for awarding attorneys’ fees and permits the Court to focus on a showing that the fund conferring a benefit on the class resulted from the lawyers efforts. In re Thirteen Appeals Arising Out of the San Juan Dupont Plaza Hotel Fire Litig., 56 F.3d 295 (1st Cir. 1995); and

(k) that the requested 33 1/3 percent fee award is well within the applicable range

of percentage fund awards; Mowbray v. Waste Management Holdings, C.A. No. 98-11534-WGY (D. Mass. August 2, 2001); In re Copley Pharmaceutical, Inc. Sec. Litig., C.A. No. 94-11897-WGY (D. Mass. Feb. 8, 1996); Wilensky v. Digital Equipment Corp., C.A. No. 94-10752-JLT (D. Mass. July 11, 2001).

Accordingly, Direct Purchaser Plaintiff's Class Counsel are hereby awarded \$ 58,333,333.00 from the Settlement Fund as their fee award which the Court finds to be fair and reasonable, and which amount shall be paid to Direct Purchaser Plaintiff's Class Counsel from the Settlement Fund in accordance with the terms of the Settlement Agreement, with interest from January 13, 2004 (the date of funding of the Settlement Fund) to the date of payment, at the same net interest rate earned by the Settlement Fund. Further, Direct Purchaser Plaintiff's Class Counsel are hereby awarded \$ 1,799,023.24 of the Settlement Fund for their expenses which the Court finds to be fair and reasonable, and which amount shall be paid to Direct Purchaser Plaintiff's Class Counsel from the Settlement Fund in accordance with the terms of the Settlement Agreement. The award of attorneys' fees and expenses shall be allocated among Direct Purchaser Plaintiff's Class Counsel, by Direct Purchaser Plaintiff's Co-Lead Counsel.

13. Without affecting the finality of this judgment, the Court retains exclusive jurisdiction over the Settlement and the Settlement Agreement, including the administration and consummation of the Settlement Agreement and in order to determine any issues relating to attorneys' fees and expenses and any distribution to members of the Class. In addition, without affecting the finality of this judgment, Defendants and each member of the Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the District of Massachusetts, for any suit, action, proceeding or dispute arising out of or relating to this Settlement Agreement or the applicability of

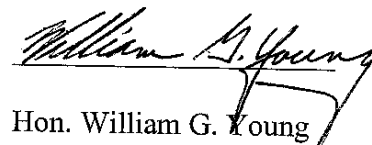
this Settlement Agreement, including, without limitation any suit, action, proceeding or dispute relating to the release provisions herein.

14. Plaintiff Louisiana Wholesale is provided with an incentive award for representing the Class of \$ 25,000.00, which amount is in addition to whatever monies Plaintiff will receive from the Settlement Fund pursuant to the Plan of Allocation.

15. In the event the Settlement does not become final in accordance with paragraph 5 of the Settlement Agreement, this Order and Final Judgment shall be rendered null and void as provided by the Settlement Agreement, shall be vacated and, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

16. The Court hereby directs that this judgment be entered by the clerk forthwith pursuant to Federal Rule of Civil Procedure 54(b). The direction of the entry of final judgment pursuant to Rule 54(b) is appropriate and proper because this judgment fully and finally adjudicates the claims of the plaintiffs and the Class against the Defendants in this Action, it allows consummation of the Settlement, and it will expedite the distribution of the Settlement proceeds to the Class members.

DATED: April 9, 2004


Hon. William G. Young
Chief Judge

TAB 6

FILED

NOV 22 1996

Judge Charles R. Norgle, Sr.
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NOV 22 1996

Judge Charles R. Norgle, Sr.
United States District Court

IN RE SOYBEAN FUTURES LITIGATION

Civil Action
No. 89 C 7009

Judge Charles R. Norgle

Magistrate Judge Rebecca
R. Pallmeyer

NOTICED
NOV 27 1996

NOTICE OF FILING

TO: Constantine L. Trela, Jr.
Sidley & Austin
One First National Plaza
Chicago, IL 60603

Wm. Bruce Hoff
Alzheimer & Gray
10 S. Wacker Drive
Suite 4000
Chicago, IL 60606

PLEASE TAKE NOTICE that on November 22, 1996, the plaintiffs filed in with the Clerk of the United States District Court, 219 S. Dearborn St., Chicago, Illinois the following:

1. Plaintiffs' Memorandum in Support of Motion for Final Approval of Class Action Settlement;
2. Joint Affidavit of Marvin A. Miller and Christopher Lovell in Support of Final Approval of Settlement and for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses and Special Incentive Award to Named Plaintiffs; and
3. Memorandum in Support of Joint Petition for Award of Attorneys Fees, Reimbursement of Litigation Expenses, and for Special Incentive Award to Named Plaintiffs

copies of which are hereby served upon you.

Dated: November 22, 1996


One of Plaintiffs' Attorneys

MILLER FAUCHER CHERTOW
CAFFERTY and WEXLER
30 North LaSalle St., Suite 3200
Chicago, Illinois 60602
(312) 782-4880

469

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
NOV 22 1996

Judge Charles R. Norgle, Sr.
United States District Court

_____) Civil Action
) No. 89 C 7009
) No. 90 C 1138
IN RE SOYBEAN FUTURES LITIGATION)
)
) Judge Charles R. Norgle
)
) Magistrate Judge Rebecca
) R. Pallmeyer
_____) 23

**MEMORANDUM IN SUPPORT OF JOINT PETITION FOR AWARD OF
ATTORNEYS FEES, REIMBURSEMENT OF LITIGATION EXPENSES,
AND FOR SPECIAL INCENTIVE AWARD TO NAMED PLAINTIFFS**

This Memorandum is submitted by plaintiffs' counsel in support of their Joint Petition for Award of Attorneys Fees and Reimbursement of Expenses.^{1/} For the reasons stated, the Court should: (1) award attorneys fees in the amount of one-third (\$7,166,666)^{2/} of the \$21,500,000 common fund created as a result of Petitioners' efforts; (2) reimburse Class Counsel's expenses in the aggregate amount of \$1,070,064.15 which are detailed in the affidavits attached to the Joint Petition; and (3) award special

^{1/} The law firms representing plaintiffs are: Miller Faucher Chertow Cafferty and Wexler (and its predecessor Washlow Chertow & Miller), Christopher Lovell, P.C. and its successors Lovell & Skirnick, L.L.P., Much Shelist Freed Denenberg Ament Bell & Rubenstein P.C., Wechsler Harwood Halebian & Feffer, Zwerling Schachter Zwerling & Koppell LLP, Sachnoff & Weaver, Susman Buehler & Watkins, David Zlotnick, Gerald Cohen and Louis F. Cainkar, Ltd., and Strauss & Troy (collectively "Petitioners").

^{2/} This amount is a very modest enhancement to the \$6,945,542.71 aggregate lodestar of all Class Counsel.

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incentive payments totaling \$14,000 to be divided among the five class representatives.^{3/}

The risks faced by Class Counsel in pursuing this action were far greater than the risks involved in standard securities fraud class actions for essentially two reasons. Joint Affidavit of Marvin Miller and Christopher Lovell, ("Joint Aff.") at ¶¶ 5-8 and 70. First, commodity futures manipulation cases, in general, and this one in particular, have not fared well in previous litigation.^{4/} Second, in order to succeed in this particular manipulation case, Class Counsel had to make a good faith argument for **and obtain** an extension of existing law with respect to **both** liability and damages. *Id.* at ¶5-8. If Class Counsel failed to obtain an extension of existing law

^{3/} No class member has objected to these requests.

^{4/} Generally, manipulation cases have been exceedingly difficult and (for the government) impossible to prove. "Manipulation May Be Hard To Prove In Sumitomo Case", The Wall Street Journal, July 15, 1996, p. C-1 ("In the 21 years of [the] existence [of the Commodity Futures Trading Commission], it has yet to win a manipulation case").

Thus, this Court itself recognized that "prior commodity manipulation cases have not fared well". In re Soybean Futures Litigation, 892 F. Supp. 1026, 1043 (N.D. Ill. 1995); see Manipulation of Commodity Futures Prices: The Unprosecutable Crime by Jerry W. Markham, 8 Yale Journal on Regulation 281, 356-58 (1991).

Specifically, defendants' conduct at issue in this action caused the Chicago Board of Trade's ("CBOT") prosecutorial office to bring price manipulation charges against two defendants here who were members of the CBOT for the same conduct at issue here. After the CBOT prosecutorial office completed the presentation of its evidence to the CBOT's fact finder, the CBOT **dismissed** the price manipulation charges!

- with respect to liability, then Class members (and Class Counsel) would have received nothing in this litigation; and/or
- with respect to damages, then the **maximum** amount which Class members could, in their **best**-case recovery at trial, have received would be less than that provided under this settlement. See Joint Aff. ¶¶ 5-8 and 69-71.

Facing exceptional risks, Class Counsel have labored for seven years to obtain an extension of the law in **both** respects (*Id.*) and secured the favorable, indeed outstanding settlement of \$21,500,000 without any reversion or other discount terms. See the Class' Memorandum in Support of Motion for Final Approval of Class Action Settlement explaining the important benefits of the proposed settlement. Indeed, the present settlement provides more to Class members than the **best** result at trial could have provided under the "traditional, historical and contemporaneous price comparisons" which would govern damages in the absence of Class Counsel's novel proposed extension in this case of commodity futures manipulation damages law. Joint Aff. ¶ 8(b).

Even in light of those substantial risks, the fee award requested by Class Counsel is far **less**, in terms of the multiplier over the total lodestar value of the services performed, than that which the Seventh Circuit has effectively required in contingent compensation cases: Class Counsel requests a modest 1.03 multiplier whereas the Seventh Circuit held a 1.01 multiplier to be **inadequate** as a matter of law in a contingent compensation case.^{5/} In view of

^{5/} Florin v. Nationsbank of Georgia, N.A., 60 F.3d 1245 (7th Cir. 1995) ("Florin II") (because a risk multiplier is **mandated** where compensation is contingent, a multiplier of only 1.01 was clearly inadequate, the district court's fee award was vacated and class counsel were awarded the 1.53 multiplier which

the exceptional risks they faced in prosecuting this action, Class Counsel believe that a multiplier of 3.0, which is frequently awarded (See Exhibit A hereto collecting cases), would be appropriate.

Due to the size of the settlement, however, Class Counsel have limited their fee request to 33 1/3% of the entire fund. This is the percentage "commonly awarded" by courts in this District employing a percentage award approach.^{6/}

In apparent recognition of the reasonableness of Class Counsel's fee, no member of the Class has objected to the fee request. The Class includes sophisticated corporations and traders some of whom were significant participants in the market and have been in contact with Class Lead Counsel. Their reaction to the settlement has been uniformly favorable.^{7/} Joint Affidavit ¶ 2. The absence of objections from any Class member, including the

they requested). See Exhibit A hereto collecting cases in which multipliers of 3.0 are common.

^{6/} Goldsmith v. Technology Solutions Co., 1995 U.S. Dist. LEXIS 15093 (N.D. Ill. Oct. 10, 1995) at *27 - *28. If anything, the greater risks faced by Class Counsel here warranted a higher percentage recovery than that commonly granted and, once again, Class Counsel's requested fee is eminently reasonable.

^{7/} In excess of 900 notices of the class settlement, disclosing petitioners' instant application for fees and reimbursement of expenses, have been sent to Class members, and the notice has been published in The Wall Street Journal, The New York Times, and The Chicago Tribune. The deadline for submission of objection was November 13, 1996. No objections to the settlement or to the fees and expenses were filed or received.

sophisticated Class members, further supports the award of the fee requested by Class Counsel.^{8/}

Decisions in this District hold that even where the exceptional risks undertaken by Class Counsel in this case are not present, the requested 33 1/3% percentage award is standard:

where the percentage method is utilized, courts in this District commonly award attorneys' fees equal to approximately one-third or more of the recovery. Liebhard v. Square D Co., No. 91 C 1103 (N.D. Ill. Jun. 6, 1993) (J. Plunkett) (awarding fees of one-third of the fund plus expenses); Wanninger v. SPNV Holdings, No. 85 C 2081 (N.D. Ill. May 10, 1993) (J. Marovich) (32% awarded, plus expenses); Long v. Trans World Airlines, Inc., No. 86 C 7521, 1993 U.S. Dist. LEXIS 5063 (N.D. Ill. Apr. 15, 1993) (J. Williams) (32% plus expenses); Hammond v. Hendrickson, No. 85 C 9829 (N.D. Ill. Nov. 20, 1992) (J. Aspen) (one-third of fund, plus expenses) First Interstate Bank of Nevada, N.A. v. National Republic Bank of Chicago, No. 80 C 6401, slip op. at 2 (N.D. Ill. Feb. 12, 1988) (J. Plunkett) (awarding 39% of settlement fund and recognizing "that this percentage is within the generally accepted range of fee awards in class action securities lawsuits"). The fee requested here of 33 1/3% of the total recovery fits comfortably within these awards. [Emphasis added; reference to exhibits omitted]

Goldsmith v. Technology Solutions Co., 1995 U.S. Dist. LEXIS 15093 at *27-*28 (N.D. Ill. Oct. 10, 1995); see also Gaskill v. Gordon, 1996 U.S. Dist. LEXIS 14480 (N.D. Ill. Sept. 30, 1996) (Awarding 38% of the total fund available: "the percentage of the fund method provides a more effective way of determining whether the hours expended were reasonable.").

^{8/} Numerous courts have recognized that "[t]he lack of objection from members of the class is one of the most important factors" in whether to grant the requested fee. General Public Utilities Sec. Lit., [1983-84 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 99,566 at p. 97,231-32 (D.N.J. 1983); In re Art Materials Antitrust Lit., 1984-1 Trade Cas. (CCH) ¶65,815 at p. 67,417 (N.D. Ohio 1983); Ressler v. Jacobson, 149 F.R.D. 651, 656 (M.D. Fla. 1992). This factor also shows the fee request is appropriate.

The percentage awards in this District are consistent with those in other districts in situations where less time was required and less risks were involved:

| <u>Case</u> | <u>Amount of Fee Award</u> | <u>Percentage of Common Fund</u> | <u>Approx. No. Years Pending</u> |
|--|--------------------------------|--------------------------------------|--------------------------------------|
| <u>In re Consol. Pinnacle West Sec. Litig./Resolution Trust Corp.- MeraBank Litig.</u> , No. 88-1830-PHX-PAR (D. Ariz. Dec. 30, 1993) | \$11,900,000 | 35 | 5 |
| <u>Hwang v. Smith Corona Corp.</u> , No. B-89-450 (TFGD) (D. Conn. March 12, 1992) | \$8,160,000 | 34 | 3 |
| <u>In re Crazy Eddie Sec. Lit.</u> , 824 F. Supp. 320 (E.D.N.Y. 1993) | \$14,200,000 | 33.8 | 6 |
| <u>In re Melridge Inc. Sec. Lit.</u> , No. CV-87-1426-FR (D. Ore. Nov. 1, 1993) | \$8,425,000 | 33.7 | 6 |
| <u>Cimarron Pipeline Const. Inc. v. National Council on Compensation Ins.</u> , 1993-2 Trade Cas. ¶70,310 (W.D. Ok. June 8, 1993) | \$11,660,000 | 33.33 | 4 |
| <u>Cohen v. Apache Corp.</u> , 1993 WL 126560 (S.D.N.Y. April 21, 1993) | \$2,150,000 | 33.33 | 4 |
| <u>In re Wedtech Sec. Lit.</u> , MDL 735 (S.D.N.Y. July 31, 1992) (cited in <u>Crazy Eddie</u> , 824 F. Supp at 326.) | \$17,665,000 | 33.33 | 6 |
| <u>In re Home Shopping Network Sec. Lit.</u> , No. 87-428 (M.D. Fla. Oct. 15, 1991) | \$6,016,000 | 33.33 | 4 |
| <u>In re United Telecom. Sec. Lit.</u> , 1994 U.S. Dist. LEXIS 9151 (D. Kan. June 1, 1994) | \$9,333,333 | 33 | 4 |
| <u>In re Public Service Co. of New Mexico</u> , [1992 Tr. Binder] Fed. Sec. L. Rep. (CCH) ¶96,988 (S.D. Cal. July 29, 1992) | \$10,527,000 | 33 | 2 |
| <u>Cohn v. Stewart</u> , Civ. No. B-89-617 (JAC) (D. Conn. Dec. 20, 1993) | \$10,015,000 | 33 | 4 |

Notwithstanding the far greater risks faced by Class Counsel in this action, the requested fee is significantly **less** than that

awarded in other cases on the basis of the multiplier over the lodestar, and is **fully consistent** with the percentage commonly awarded in shorter, less risky cases in this District and elsewhere. Accordingly, Class Counsel, who have prosecuted this action on a contingent fee basis approximately seven years, expending more than 22,912.50 hours of attorney time, respectfully request an attorneys fee award of \$7,166,666, which represents a very modest 1.03 enhancement to their lodestar and 33 1/3% of the Settlement Fund which their seven years of effort secured.

**THE LEGAL STANDARDS GOVERNING THE AWARD OF
ATTORNEYS' FEES**

It is well settled that attorneys who achieve a benefit for class members are entitled to be compensated for their services. See Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980). As explained in the Third Circuit Task Force on Court Awarded Attorneys' Fees ("Third Circuit Task Force"), the district courts employ two complementary approaches in awarding reasonable attorneys' fees in a common fund case. Report of the Third Circuit Task Force On Court-Awarded Attorneys Fees, 108 F.R.D. 237 (1985). One approach, that recommended by the Third Circuit Task Force in actions such as this, is the percentage of-the-fund approach. Under this approach, the district court awards a percentage of the fund created by the attorneys' efforts as their reasonable attorneys' fee. The other method -- the "lodestar" approach -- involves multiplying the number of hours that the attorneys expended by the attorneys' normal hourly rate to create a "lodestar" figure, which is often adjusted upwards by the Court to

account for the contingent nature of the case, the quality of work performed, delay in payment and other factors.

Petitioners respectfully submit that application of the percentage-of-the-fund approach is the most efficient and suitable, and an award of 33 1/3% of the common fund is fair and reasonable.^{2/} However, under the lodestar method, Petitioners' requested fee constitutes a 1.03 multiplier which not only is reasonable but modest compared to the 3.0 and higher multipliers awarded in less risky, shorter cases. See Exhibit A hereto. In Florin v. Nationsbank of Georgia, N.A., 34 F.3d 560 (7th Cir. 1994) (Florin I), the Seventh Circuit reaffirmed that the decision to award attorneys' fees according to the percentage-of-the-fund or lodestar approach rests in the sound discretion of the trial court.

[W]e are of the opinion that both the lodestar approach and the percentage approach may be appropriate in

^{2/} In recent years the award of attorney's fees based on a percentage of the fund recovered for the class has found increased favor with the courts, including this Court, the Seventh Circuit and the Supreme Court. The Supreme Court has noted that in calculating attorney's fees under the common fund doctrine, "a reasonable fee is based on a percentage of the fund bestowed on the class." Blum v. Stenson, 465 U.S. 886, 900 n.16 (1984). The United States Court of Appeals for the District of Columbia correctly recognized in Swedish Hospital Corporation v. Shalala, 1 F.3d 1261 (D.C. Cir. 1993), that

[a]lthough this language is dicta, as Blum involved no common fund, it is entirely consistent with the Court's decision four years earlier in Boeing Co. v. Van Gemert, 444 U.S. 472 (1980), in which the Court approved a fee award based on the percentage-of-the-fund method in a common fund case. More importantly, the Blum footnote makes it plain that that decision's approval of the lodestar method in the fee-shifting context was not intended to overrule prior common fund cases, such as Boeing.

1 F.3d at 1268.

determining attorney's fee awards, depending on the circumstances. We therefore restate the law of this circuit that in common fund cases, the decision whether to use a percentage method or a lodestar method remains in the discretion of the district court. We recognize here, as we did in In re Continental Illinois Securities Litigation, that there are advantages to utilizing the percentage method in common fund cases because of its relative simplicity of administration. However, because of the district court's familiarity with this litigation, we leave the decision as to which method is the most efficient and suitable to this case up to the district court.

34 F.3d at 566 (emphasis added).^{10/}

In Matter of Continental Illinois Sec. Lit., 962 F.2d 566 (7th Cir. 1992) (Continental I), referred to above in Florin I, Judge Posner maintained that a percentage-of-the-fund approach most closely approximates the manner in which attorneys are compensated in the marketplace for these types of cases. 962 F.2d at 572.

[A] percentage-of-the-fund approach more accurately reflects the economics of litigation practice. The district court in Howes v. Atkins, 668 F. Supp. 1021 (E.D.Ky.1987), noted that "[p]laintiffs' litigation practice, given the uncertainties and hazards of litigation, must necessarily be result-oriented. It matters little to the class how much the attorney spends in time or money to reach a successful result." Id. at 1025 (internal quotation marks omitted).

Swedish Hospital Corporation v. Shalala, 1 F.3d 1261, 1269 (D.C. Cir. 1993) (citing Continental I).^{11/} In the Matter of Continental

^{10/} See also Harman v. Lyphomed, Inc., 945 F.2d 969, 974 (7th Cir. 1991) ("The decision of the whether to use a percentage method remains in the discretion of the district court.").

^{11/} See Kirchoff v. Flynn, 786 F.2d 320, 325-26 (7th Cir. 1986) (the "contingent fee uses private incentives rather than careful monitoring to align the interests of lawyer and client. The lawyer gains only to the extent his client gains."). See also Phemister v. Harcourt Brace Jovanovich, Inc., 1984-2 Trade Cas. (CCH) ¶ 66,234 (N.D.Ill. 1984) ("The percentages agreed on [in non-class litigation] vary, with one-third being particularly

Illinois Sec. Lit., 985 F.2d 867 (7th Cir. 1993) (Continental II), the Seventh Circuit strongly endorsed use of the percentage method for complex class actions resulting in the creation of a common fund. See also In re Pacific Enterprises Sec. Lit., 47 F.3d 373 (9th Cir. 1995) (upholding award of 33% of common fund in shareholder derivative suit). Unlike statutory fees, which result in a shifting of the fee burden to the losing party (for purposes of punishment and encouraging private parties to enforce substantive rights), common fund fees result in a sharing of fees among those benefitted by the litigation. Brown v. Phillips Petroleum Co., 838 F.2d 451, 454 (10th Cir. 1988), cert. denied, 488 U.S. 822 (1988); Swedish Hospital Corporation, 1 F.3d at 1269. See also Florin v. Nationsbank of Georgia, N.A., 34 F.3d 560 (7th Cir. 1994); see Cimarron Pipeline Construction Inc. v. National Council on Compensation Insurance, 1993-2 Trade Cas. (CCH) ¶70,310 (W.D.Ok. June 8, 1993) (one-third of common fund for \$11,660,000 fee); In re Crazy Eddie Sec. Lit., 824 F. Supp. 320, 324 (E.D.N.Y. June 11, 1993) (33.8% for \$14,200,000 fee); In re Public Service Company of New Mexico, [1992 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 96,988 at p. 94,291 (S.D.Ca. July 29, 1992) (33% for \$10,527,000 fee); In re Wedtech Sec. Lit., MDL 735 (S.D.N.Y. July 31, 1992) (cited in Crazy Eddie, 824 F. Supp at 326) (one-third of common fund for \$17,665,000 fee). See also Gordon v. Am. Adjustable Rate Term Trust, No. 4-95-667 (D. Minn. Sept. 3, 1996)

common."); In re Shell Oil Refinery, 155 F.R.D. 552, 571 (E.D. La. 1993) ("The customary contingent fee is between 33 1/3% and 40%.")

(Exhibit B); In re SLM International, Inc. Sec. Lit., No. 94 Civ. 3327 (RLC), order, (S.D.N.Y. July 23, 1996).

However, this Court does have the discretion, if it prefers, to employ the lodestar/multiplier approach. See Harman v. Lyphomed, Inc., 945 F.2d 969, 974 (7th Cir. 1991). Petitioners' aggregate lodestar in this case is \$6,934,975.25 through October 14, 1996 (see Joint Aff. ¶¶ 10-11, 69-71) and the requested fee represents a modest multiplier of only 1.03. In Florin I, the Seventh Circuit stated that a risk multiplier in a common fund case is mandated if, as here, counsel had no sure source of compensation for their services. 34 F.3d at 565. In Florin II, the Seventh Circuit found that the trial court abused its discretion in awarding a risk multiplier of only 1.01 and directed the trial court to award fees based on the 1.53 multiplier requested by the petitioners. See also In re Washington Public Power Supply System Lit., 19 F.3d 1291, 1302 (9th Cir. 1994) ("the district court abused its discretion in denying a risk multiplier"). Here, the fee requested by Petitioners is well below the range of multipliers commonly awarded in complex class actions. See, e.g., In re Cenco, Inc. Sec. Lit., 519 F. Supp. 322 (N.D. Ill. 1981) (multiple of 4.0); In re Shell Oil Refinery, 155 F.R.D. 552, 573-74 (E.D. La. 1993) (multiplier of 3.2508). Attached as Exhibit A is a sampling of attorneys' fee decisions awarding multipliers ranging from 2.26 to 8.33.

Given the very substantial benefit conferred on the class, the exceptional risks faced by Class Counsel, and the high quality of work performed, the fee requested by Petitioners for their seven

years of effort is fair, reasonable, well-justified and should be approved.

THE EXPENSES INCURRED BY PETITIONERS

As noted in the Affidavits attached to the Joint Affidavit, the out-of-pocket expenses for which Petitioners seek reimbursement in connection with this litigation total \$1,070,064.15. These Affidavits contain breakdowns of the various categories of expenses of all Petitioner firms, and the Court is respectfully referred to the Affidavits for this information.

In order to attempt to extend the law of liability and damages in this complex area, Class Counsel were required to consult with and retain numerous experts and consultants. Almost one-half of the expenses in this case were for experts and consultants.^{12/} Joint Aff. ¶ 11. In addition, this case required extensive foreign travel and depositions because the principal two defendants and a crucial witness were located overseas. Also, this case necessitated voluminous and costly document production, numerous (almost sixty) and costly depositions, and comprehensive and costly pre-trial order materials. Finally, last minute preparation on the brink of trial required the preparation and submission of more than 50 demonstrative trial exhibits prepared with the assistance (at significant cost) of outside graphics firms. Joint Aff. ¶¶ 11-13.

^{12/} Nevertheless, plaintiffs' entire expense request is equal to what defendants spent for just one of their eight experts during one twelve-month period prior to that expert's deposition herein. The defendants, who had eight experts, paid just one of these experts (Paul Charnetzki and Arthur Andersen accounting and consulting firm) in excess of \$1,000,000 during just the twelve months prior to Mr. Charnetzki's deposition herein.

The costs and expenses should be reimbursed because they were reasonable and, indeed, necessary to obtain the excellent settlement achieved in this case. See Joint Affidavit ¶ 9.

**THE COURT SHOULD GRANT THE SPECIAL INCENTIVE AWARDS
TO THE FIVE CLASS REPRESENTATIVES.**

In recognition of their efforts to protect the interests of the Class, the named plaintiffs request special incentive awards as follows: Gerald McCullough: \$1,000; Wilbur Klein: \$2,000; Sonny Merrit: \$2,000; Gerald R. Verr: \$2,000; and John Burns: \$7,000. Plaintiff Burns was the sole class representative of the long subclass. He travelled to Chicago from Montana for his deposition and greatly assisted Class Counsel in the prosecution of this action. The foregoing figures, thus, represent the relative contributions to the litigation effort made by each of the named representatives.

Numerous courts have recognized the propriety of compensation to the plaintiff where: (1) action was taken by the class representative to benefit others and a substantial benefit has been achieved; and (2) the class representative expended time and effort in pursuing the litigation. See Enterprise Energy Corp. v. Columbia Gas Transmission Corp., 137 F.R.D. 240, 250 (S.D. Ohio 1991); Spicer v. Chicago Board Options Exchange, Inc., 844 F. Supp. 1226, 1266-1268 (N.D. Ill. 1993).

In this case, plaintiffs came forward to assume the burdens of class representation for the benefit of the Class and an outstanding result has been achieved. In addition, plaintiffs kept in close contact with counsel throughout the litigation. Moreover,

they were examined during contentious and often acrimonious depositions conducted by defendants' counsel. See Golden v. Schulman, [1988-1989 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 94,060 at 90,954 (E.D.N.Y. 1988). As in In re Dun & Bradstreet Credit Services Customer Lit., 130 F.R.D. 366 (S.D. Ohio 1990), plaintiffs "spent a great deal of time and were very active in reviewing the case and acting as advisors to Class counsel in the prosecution and settlement of this case". Id. at 374.

Numerous federal courts, recognizing that awards to class representatives is permitted in certain circumstances and furthers the goals of federal statutes, have made awards to named plaintiffs in amounts of \$10,000 each or more. In Spicer v. Chicago Board Options Exchange, Inc., 844 F. Supp. 1226, 1266-1268 (N.D. Ill. 1993), Judge Will granted incentive awards of \$10,000 to each of three named plaintiffs out of a \$10 million common fund. See also In re Catfish Antitrust Lit., 1996 U.S. Dist. LEXIS 12586 (N.D. Miss. August 12, 1996) ("The court finds an incentive award appropriate in this case and will therefore award each of the [four] named plaintiffs an incentive award in the requested amount of \$ 10,000.00."); Cimarron Pipeline Construction, Inc. v. National Counsel on Compensation Ins., 1993-2 Trade Cas. (CCH) ¶70,310 (W.D. Ok. June 8, 1993) (incentive award of \$10,000 for each of four class representatives); In re Dun & Bradstreet Credit Services Customer Lit., 130 F.R.D. 366, 373-374 (S.D. Ohio, 1990) (incentive awards of \$55,000 and \$25,000, to five class representatives); Enterprise Energy Corp. v. Columbia Gas Transmission Corp., 137 F.R.D. 240, 250 (S.D. Ohio 1991) (incentive awards of \$50,000 for each of six

class representatives).^{13/} The requested incentive award for the five named plaintiffs, in recognition of their efforts on behalf of all Class members, is appropriate, well deserved, and should be granted.

CONCLUSION

For all of the foregoing reasons, the Court should award Petitioners attorneys fee of \$7,166,666, representing one-third of

^{13/} See also In re Greenwich Pharmaceutical Sec. Lit., 1995 U.S. Dist. LEXIS 5717 at *20 (E.D. Pa. April 25, 1995) (\$5000 to each representative: "By filing suit on behalf of other members of the class, participating in discovery and subjecting themselves to depositions, the class representatives have aided effective enforcement of the securities laws against violations that might otherwise go unenforced."); In re First Jersey Securities, Inc. Sec. Lit., MDL No. 681 (E.D. Pa., June 23, 1989) (\$24,000 awarded to named plaintiff); Squitieri v. Gould, No. 89-6832 (E.D. Pa. March 31, 1991) (award of \$17,500 to representative plaintiff); CBS, Inc. v. Paley, No. 86 Civ 9140 (JMC) (S.D.N.Y. 1990) (award of \$15,000 to derivative plaintiff); In re Immunex Sec. Lit., 864 F. Supp. 142 (W.D. Wash. 1994) (\$25,000 incentive award divided among eleven representatives); In re Granada Partnership Sec. Lit., 803 F. Supp. 1236, 1247 (S.D. Tex. 1992) (\$5,000 awarded to each named plaintiff); In re SmithKline Beckam Corp. Sec. Lit., 751 F. Supp. 252 (E.D. Pa. 1990) (\$5,000 awarded to each class representative); Golden v. Schulman, [1988-1989 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 94,060 at 90,954 (E.D.N.Y. 1988) (court awarded \$5,000 in incentive awards); In re GNC Shareholder Lit., 668 F. Supp. 450, 451 (W.D. Pa. 1987) (\$3,000 for each plaintiff); In re Surgical Laser Technologies Sec. Lit., 1992 U.S. Dist LEXIS 16724 (E.D. Pa., October 29, 1992) (awards of \$2,500 and \$1,000 each to various representatives); In re Jackson Lockdown/MCO Cases, 107 F.R.D. 703 (E.D. Mich., 1985.) (awards of up to \$2,000 for prisoners/plaintiffs).

the common fund generated by their efforts, allow reimbursement of litigation expenses in the amount of \$1,069,927.60 and grant the request for special incentive awards totaling \$14,000 to the representative plaintiffs.

Dated: November 22, 1996

Respectfully submitted,

By:



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CERTIFICATE OF SERVICE

I, Marvin A. Miller, an attorney, certify that I served a true and correct copy of the foregoing Memorandum in Support of Joint Petition for Award of Attorneys Fees, Reimbursement of Litigation Expenses, and for Special Incentive Award to Named Plaintiffs upon:

Constantine Trela
Sidley & Austin
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by causing the same to be personally delivered on November 22, 1996


MARVIN A. MILLER

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE SOYBEAN FUTURES LITIGATION

Civil Action
Nos. 89 C 7009
90 C 1138

Judge Charles R. Norgle, Sr.

Magistrate Judge Rebecca
R. Pallmeyer

DOCKED
DEC 02 1996

FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE

The Plaintiffs and the Defendants (as those terms are defined in the Stipulation of Settlement dated as of August 29, 1996) (the "Stipulation"), having executed and filed the Stipulation; the Court having entered its Order thereon dated October 15, 1996, directing that a summary notice of the proposed settlement of this action be published and a more detailed notice be mailed to the Class and scheduling a hearing to be held to determine whether the proposed settlement should be approved as fair, reasonable and adequate; said notice having been given, a hearing having been held on November 27, 1996, at which all interested persons were given an opportunity to be heard and the Court having read and considered all submissions in connection with the proposed settlement, and having reviewed and considered the files and records herein, the Court finds and concludes that:

This action (the "Action") was commenced on September 19, 1989, and the Consolidated Amended Class Action Complaint (the "Complaint") was filed on March 9, 1993.

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The Complaint asserts claims for Defendants' actions which allegedly (1) exceeded speculative position limits in violation of the Commodity Exchange Act and thereby intentionally manipulated to artificially high levels the prices of the July and August 1989 soybean futures contracts between June 1 and July 11, 1989; (2) manipulated, in violation of the Commodity Exchange Act, the prices of the July and August 1989 soybean futures contracts to artificially high levels between June 1 and July 11, 1989; and (3) constituted common law fraud. By Order entered June 7, 1995, this Court dismissed plaintiffs' claims for excessive speculation and common law fraud. Defendants deny that any of their actions manipulated soybean futures prices, and the Court has not ruled on the merits of plaintiffs' manipulation claim.

By Orders entered May 11 and December 27, 1993, the Court determined that this Action should be certified as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of all persons who (a) purchased July and/or August 1989 soybean futures contracts (other than to liquidate a pre-existing position in such contract) between June 1, 1989 and July 11, 1989, inclusive, and held that contract or contracts until at least the beginning of trading on July 10, 1989 (the "Long Subclass") or (b) sold July and/or August contracts (other than to liquidate a pre-existing position in such contract) between June 1, 1989 and July 5, 1989, inclusive, and who thereafter liquidated that position or purchased back that contract or contracts between the beginning of trading on June 14 and the end of trading on July 11,

1989 (the "Short Subclass"). Excluded from the Class are Defendants, any entity in which any Defendant has a controlling interest, or the legal representative, affiliate, successor, predecessor in interest or assignee of any Defendant. Also excluded are all persons who timely and validly excluded themselves from the Class pursuant to the Notice of Pendency of Class Action dated April 19, 1994. This definition defines the class (the "Class") for purposes of the Action, the settlement and this Final Judgment of Dismissal With Prejudice (the "Judgment").

The Stipulation between and among the Plaintiffs and Defendants provides for the settlement of the Action on behalf of the Plaintiffs and all members of the Class who did not file timely and valid Requests for Exclusion ("Settling Plaintiffs") pursuant to the Notice of Pendency subject to approval by this Court of its terms and to the entry of this Judgment. The Court scheduled a hearing to consider the approval of the Stipulation, and directed that notice of the proposed settlement and hearing be mailed to members of the Class at their last known addresses and that a Summary Notice be published in the Chicago Tribune, New York Times, and the national edition of the Wall Street Journal.

In accordance with the Stipulation and an Order of the Court entered on October 23, 1996, Plaintiffs mailed to the Class a notice (the "Notice") and caused a summary notice to be published in Chicago Tribune, New York Times, and the national edition of the Wall Street Journal (the "Summary Notice") of the proposed settlement of the Action and of the opportunity to object to the

Settlement. An Affidavit of mailing of the Notice and publication of the Summary Notice was filed with the Court on November 1, 1996.

The Notice and Summary Notice provided to members of the Class constitute the best notice practicable under the circumstances and included individual notice to all members of the Class who could be identified by reasonable effort. The affidavit of mailing filed with this Court on November 1, 1996, demonstrates that this Court's Order, with respect to the Notice and Summary Notice, has been complied with and constituted valid, due, and sufficient notice to members of the Class, complying fully with due process and Rule 23 of the Federal Rules of Civil Procedure.

Plaintiffs and the Defendants have applied to the Court for approval of the terms of the Stipulation and for the entry of this Judgment. Pursuant to the Notice and Summary Notice, and upon notice to all parties, a hearing was held before this Court on November 27, 1996, to consider whether the settlement set forth in the Stipulation should be approved by this Court as fair, reasonable, and adequate.

The Stipulation is the product of good faith arm's-length negotiations by the parties thereto.

NOW THEREFORE, GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The members of the Class who have filed timely and valid requests for exclusion are not bound by this Judgment. A listing of those persons is attached as Schedule A to this Order.

All other members of the Class are bound by this Judgment and by the Settlement, including the releases provided for in this Judgment.

2. The Stipulation and settlement are not an admission by the Defendants, nor is this Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendants. Furthermore, neither the Stipulation nor the Settlement is a concession by any Defendant and neither shall be used as an admission of any fault or omission by any person. Neither this Judgment, the Stipulation, nor any document referred to herein nor any action taken to carry out the Stipulation, is, may be construed as, or may be used as an admission by or against the Defendants of any fault, wrongdoing or liability whatsoever. Entering into or carrying out the Stipulation, the exhibits thereto, and any negotiations or proceedings relating thereto shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by any of the Defendants and shall not be offered or received in evidence in any action or proceeding against any party hereto in any court, administrative agency or other tribunal for any purpose whatsoever, other than to enforce the provisions of this Judgment, the Stipulation, or the provisions of this Judgment or any related agreement or release; except that the Stipulation and the exhibits may be filed in this Action or related Action as evidence of the Settlement or in any subsequent action against or by the Defendants

to support a defense of res judicata, collateral estoppel, release, or other theory of issue preclusion or similar defense.

3. The Stipulation and Settlement are fair, reasonable and adequate as to the Class, and the Stipulation and Settlement are hereby finally approved in all respects, and the parties to the Stipulation are hereby directed to consummate and perform its terms.

4. Upon the payment by Defendants of the Settlement Fund as set forth in the Stipulation of Settlement, any and all claims asserted against the defendants in this Action and in any of the actions consolidated in this Action, and any claims with respect to the May, July, or August 1989 soybean futures contracts which could have been asserted therein, are dismissed on the merits, with prejudice as to the Defendants and without costs to any party as against any other. All Plaintiffs and Class Members, whether or not they execute and deliver the Proof of Claim and Release and whether or not they have filed lawsuits, and their heirs, executors, administrators, successors, and/or assigns are forever barred and enjoined from instituting or prosecuting, either directly, indirectly, representatively or in any other capacity, a class action or any other action against Defendants and their respective predecessors, successors, affiliates, present or former directors, officers, employees, agents, advisors, and attorneys with respect to any causes of action, suits, claims, obligations, debts, demands, agreements, promises, liabilities, controversies, costs, expenses, and attorneys' fees whatsoever, whether based on

any federal or state law or other right of action, foreseen or unforeseen, matured or unmatured, known or unknown, accrued or not accrued, which Plaintiffs and members of the Class had, have, or may hereafter have against the defendants or any of them, for, by reason of, or arising from or in any way based on, connected with or related to the facts, circumstances, transactions, or occurrences alleged or which could have been alleged directly or indirectly in this Action, in any of the actions consolidated in this Action or in the Consolidated Complaint.

5. Each member of the Class who did not timely and validly request exclusion from the Class is barred and permanently enjoined from commencing or prosecuting, either directly, representatively, or in any other capacity, any action or suit against the Defendants with respect to any and all of the Released Claims.

6. Members of the Class who have validly and timely requested exclusion from the Class may pursue their own individual remedies, if any, to the extent that such remedies, if any, are not time barred.

7. Without affecting the finality of this Judgment in any way, this Court reserves jurisdiction over: (a) implementation of the Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) enforcing and administering the Stipulation including any releases executed in connection therewith; and (d) other matters related or ancillary to the foregoing.

8. Class Counsel in the Action are hereby awarded attorneys' fees in the amount of \$7,166,666.00 and reimbursement of expenses in the amount of \$1,070,064.15, with the attorneys' fees to be distributed and allocated by Class Co-Lead Counsel to all Class counsel, taking into consideration the contributions of all counsel to the Action. The payment of attorneys' fees and reimbursement of expenses, together with interest thereon at the same rate paid on the Settlement Fund, to all Class Counsel shall not be made until thirty five (35) days after the Effective Date set forth in the Stipulation.


9. The Method of Distribution specified in the Class Notice is approved as fair and reasonable.

10. The named plaintiffs in this Action are awarded a sum over and above their respective shares of the Settlement Amount as follows: John Burns \$7,000; Gerald Verr \$2,000; Sonny Merrit \$2,000; Wilbur Klein \$2,000; and Gerald McCullough \$2,000. The payment of the foregoing amounts shall not be made until thirty five (35) days after the Effective Date set forth in the Stipulation.

11. It is expressly determined within the meaning of Rule 54(b) of the Federal Rules of Civil Procedure that there is no just

to enter and docket this final order and the final Judgment dismissing the Complaint with prejudice and without costs to any party.

DATED: 11/27, 1996.



CHARLES R. NORGLÉ, SR.
United States District Judge
for the Northern District
of Illinois

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TAB 7

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STANDARD IRON WORKS, on behalf of
itself and all others similarly situated,

Plaintiffs,

v.

ARCELORMITTAL; ARCELORMITTAL
USA, INC.; UNITED STATES STEEL
CORPORATION; NUCOR
CORPORATION; GERDAU
AMERISTEEL CORPORATION; STEEL
DYNAMICS, INC.; AK STEEL HOLDING
CORPORATION; SSAB SWEDISH
STEEL CORPORATION; COMMERCIAL
METALS, INC.,

Defendants.

Case No. 08 C 5214

Judge James B. Zagel

**ORDER AWARDING ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION
EXPENSES TO CLASS COUNSEL FROM THE COMMON SETTLEMENT FUNDS,
AND APPROVING PLAN OF ALLOCATION AND DISTRIBUTION**

The Court, having considered Class Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Litigation Expenses and the Memorandum of Law and exhibits in support thereof (Dkt. No. 519); having held hearings on October 17, 2014 and October 21, 2014 concerning final settlement approval, attorneys' fees and other related issues; and having considered all of the submissions and arguments with respect thereto, pursuant to Rules 23 and 54 of the Federal Rules of Civil Procedure it is hereby ORDERED, ADJUDGED AND DECREED that Class Counsel's Motion for Attorneys' Fees and Reimbursement of Litigation Expenses is GRANTED as follows:

1. Settlement Class Counsel have moved for attorneys' fees and reimbursement of litigation expenses out of the total common settlement funds in this litigation. As a result of the Settlements with ArcelorMittal and U. S. Steel, and prior settlements with Defendants Commercial Metals, AK Steel, and Gerdau Ameristeel, Class Counsel has secured a total common fund recovery of \$163.9 million for the benefit of the Settlement Class.

2. After two appropriate notices to the Settlement Class of their intention to seek up to one-third of the total common settlement fund as attorneys' fees and to seek reimbursement of litigation expenses, and after a third notice to the Class providing a third opportunity to object to Class Counsel's motion for attorneys' fees after that motion was filed, and upon consideration of the motion and all related submissions and argument, and the response of the Settlement Class thereto; now therefore pursuant to Rules 23(h) and 54(d) of the Federal Rules of Civil Procedure, this Court awards Settlement Class Counsel 33% of the total Settlement Fund (*i.e.*, 33% of the sum of all five settlements obtained to date) as a fair and reasonable attorneys' fee.

3. The Court finds that a 33% fee comports with the prevailing market rate for legal services of similar quality in similar cases. The Court rests this conclusion on, *inter alia*, data provided by Class Counsel concerning market rates; the Court's consideration of fee awards in similar complex litigation, including many recent antitrust class actions in which 33% fees were awarded for similar work; the nature and complexity of this particular litigation; the substantial risks of non-recovery borne by Class Counsel in prosecuting this matter on a purely contingent basis while advancing all litigation costs; the amount and quality of Class Counsel's work; and the results obtained on behalf of the Class.

4. Class Counsel initiated and developed this case with no assistance from any prior government investigation or prosecution, and handled the matter effectively and without

compensation through more than six years of hard-fought litigation. The issues were risky and difficult, and Class Counsel's ultimate success in recovering \$163.9 million for the Class—payable promptly in cash—supports the requested fee award.

5. A lodestar “cross check” further supports a 33% fee award. Class Counsel devoted more than \$27.7 million in professional time at current billing rates (or approximately \$23.6 million at historical rates) to litigating this case. The work involved, *inter alia*, extensive pre-complaint investigation; motion to dismiss and case management briefing; litigating numerous discovery issues with all eight Defendants; reviewing over 3.5 million pages of documents produced in class certification discovery; collecting, reviewing and producing documents from the five class representatives; preparing for and taking the depositions of defendants' expert and lay witnesses; preparing for and defending the depositions of the class representatives; preparing for and conducting a 3-day class certification hearing and numerous other hearings, arguments and conferences over the past six years; preparing thousands of pages of class certification, *Daubert* and expert submissions; and much more. All of this work led directly to the creation of the common Settlement Fund.

6. The Court finds that Class Counsel performed their work reasonably and efficiently, that their billing rates are appropriate and consistent with market rates for attorneys of similar skill doing similar work, and that the lodestar totals are reasonable.

7. Based on current billing rates, the requested lodestar “multiplier” is approximately 1.97, which the Court finds is well within the range of reasonable multipliers awarded in similar contingent cases. The requested multiplier is further supported by the fact that Class Counsel bore all the risk of litigating this complex case (including millions of dollars in litigation expenses) with no guarantee of reimbursement. Having shouldered these risks, and

having achieved outstanding results for the Class, Class Counsel have earned their requested multiplier.

8. The reaction of the Class supports the requested fee award. The Settlement Class in this case includes approximately 5,300 direct purchasers, many of which are sophisticated business entities. The absence of objections indicates that the fee is fair and reasonable and consistent with prevailing market rates.

9. The Court directs that Co-Lead Counsel allocate the fee award among co-counsel in a reasonable manner consistent with Co-Lead Counsel's assessment of each firm's contribution to the prosecution of the case.

10. Class Counsel also requests reimbursement for \$406,850.08 in expenses they have advanced in the prosecution of this lawsuit. The Court grants that request and finds the expenses to be fair and reasonably incurred to achieve the benefits to the Settlement Class obtained in the Settlement, as well as the continued litigation of this Action against non-settling Defendants.

11. After deducting Court-approved attorneys' fees and expenses (including the previously approved costs of notice and settlement administration), the balance of the common settlement funds shall be distributed to Class members in accordance with Plaintiffs' proposed Plan of Allocation and Distribution, attached hereto as Exhibit 1. The Court finds that the Plan of Allocation and Distribution is fair, reasonable and adequate, and the Court therefore approves the proposed Plan of Allocation and Distribution as submitted. After final approval of the Settlements and entry of this order awarding attorneys' fees and expenses, the claims administrator (Garden City Group) will mail pre-printed claim forms to all Class members identified as direct purchasers in Defendants' transaction data. The pre-printed claim forms shall be in a format substantially similar to the proposed claim form contained in Exhibit 1. Class members will be asked to verify the accuracy of certain purchase information on the pre-printed claim forms and return those forms to the

claims administrator, and they will be given an opportunity to submit additional or corrective information if they wish. Following expiration of the deadline for the return of claim forms, and after consideration of any supplemental information submitted by Class members, the claims administrator will calculate each claiming Class member's *pro rata* share of the Settlement Funds, net of then-due and estimated future settlement administration costs. Class Counsel will supervise the claims process, and Class Counsel will file a motion to update the Court on the claims process and to request approval of the final schedule of distributions prior to any checks being mailed to the Class.

WHEREFORE the Court grants an attorneys' fee award of 33% of the total common settlement funds (*i.e.*, 33% of \$163.9 million, or a total fee of \$54,087,000), authorizes Co-Lead Counsel to allocate the fee award among co-counsel at Co-Lead Counsel's discretion, awards Class Counsel reimbursement of their requested "out of pocket" litigation costs and expenses from the Settlement funds in the amount of \$406,850.08 (in addition to the reimbursement of \$5,064,908.97 in litigation expenses approved in connection with the earlier Settlements), and approves the proposed Plan of Allocation and Distribution for the Settlement funds.

SO ORDERED this the 22nd day of October, 2014.

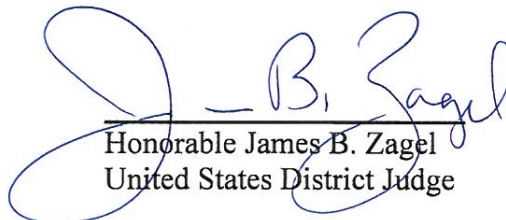

Honorable James B. Zagel
United States District Judge

EXHIBIT 1

**CLASS COUNSEL'S PROPOSED PLAN OF ALLOCATION AND DISTRIBUTION
FOR THE *STEEL ANTITRUST* SETTLEMENT FUNDS RECOVERED FROM
DEFENDANTS ARCELORMITTAL, U.S. STEEL, GERDAU, COMMERCIAL
METALS, AND AK STEEL**

1. Distribution and Submission of Personalized Claim Forms

After final approval of the Settlements and entry of an order awarding attorneys' fees and expenses, The Garden City Group, Inc. ("Garden City Group"), the claims administrator approved by the Court, will prepare and mail proof of claim forms, substantially in the form attached as Appendix A to this Plan, to all members of the Class. The mailing list was derived from the Defendants' transactional databases, as synthesized by Plaintiffs' expert consultants and Garden City Group. Garden City Group and Co-Lead Counsel have updated the mailing list in the course of administering earlier notice programs in this matter, and will further update it as necessary.

The proof of claim form explains that members of the certified Settlement Class ("Class Members") will be entitled to a distribution from the Settlement Funds, and identifies Class Members as those who purchased Steel Products (defined in the form) directly from a Defendant (defined in the form) in the United States and its territories at any time from April 1, 2005 through December 31, 2007, except for Defendants, governmental entities, and purchasers who timely elected to exclude themselves from the Class.

The proof of claim form further explains that Class Members will be entitled to a *pro rata* distribution of the Net Settlement Funds. Net Settlement Funds are the monies deposited into escrow pursuant to the approved Settlement agreements, plus all accrued interest on those accounts, minus all attorneys' fees and expenses awarded by the Court, minus reasonable anticipated fees and costs associated with settlement administration, and minus anticipated tax payments and tax preparation fees associated with the Escrow Accounts.

The claim form states that Class Members' recovery will be a function of their purchase volume (in dollars) of eligible Steel Products from all of the Defendants during the Class Period. Using data obtained from sales records provided by the Defendants, Garden City Group will prepare a personalized claim form for each Class Member that includes the dollar value of the Class Member's purchases of eligible Steel Products during the Class Period.

Class Members will be advised that they must submit a claim form to be eligible to receive a distribution from the Settlement funds. Class Members will have two options for doing so. First, they can simply sign and return their claim form if they accept the pre-printed tabulation of qualifying purchases. Alternatively, they can return the claim form along with backup data supporting a different estimated dollar value of eligible purchases.

Using the pre-printed claim form will save most Class Members substantial time and effort they might otherwise have to devote to tracking down, compiling and submitting documentation in support of their claim, and will reduce the time necessary for reviewing and processing claims and hence advance the date of ultimate distribution of funds. If Class Members believe the pre-printed purchase data is inaccurate, however, they will have the option of submitting their own purchase data so long as it is supported by adequate proof.

To make a claim and receive a distribution from the Net Settlement Funds, a Class Member must return a properly completed claim form to Garden City Group postmarked no later than forty-five (45) days from the date of the initial claim form mailing to the Class Member.

2. Processing and Review of Claims

Garden City Group will review and process all submitted claims, under the supervision and guidance of Class Counsel. Garden City Group first will determine whether a claim form is timely, properly completed, and signed.

If Garden City Group determines that it needs further information or documentation to properly process a claim, the claimant will be notified in writing. The notification will explain how the claimant can cure the deficiency and provide a reasonable deadline (generally twenty (20) days from the mailing date of the deficiency notification) for submitting a curing response. If a claimant fails to correct the deficiency within the time specified, the claim may be rejected in whole or in part.

Garden City Group will classify all claims as either “Eligible” or “Ineligible.” “Eligible Claims” will be further classified as: (i) claims recommended for approval as filed; (ii) claims recommended for approval but with modification; or (iii) late claims recommended for acceptance because they would have been Eligible Claims if filed on time and their acceptance will not substantially delay claims administration. Garden City Group will classify as “Ineligible Claims” those claims that it recommends for rejection and will identify the basis.

Class Counsel will review the list of Eligible and Ineligible Claims and may accept, reject, or modify the Class Administrator’s decisions.

3. Calculation of Class Member *Pro Rata* Shares and Distribution Amounts

Once Class Counsel and Garden City Group determine which claims are recommended for approval (as submitted or as modified), Garden City Group will calculate each claimant’s *pro rata* share of the settlements. Each claimant’s share will be in proportion to the total amount of approved purchases of Steel Products, calculated as a fraction—the numerator being the sum of that claimant’s eligible purchases in dollars, and the denominator being the sum of all approved claimants’ eligible purchases in dollars. Garden City Group will multiply the resulting fraction

for each claimant by the dollar amount of the monies to be distributed from the Net Settlement Funds to obtain the dollar value of each claimant's distribution payment.¹

4. Submission of a Recommended Schedule of Distribution

After Garden City Group calculates each claimant's *pro rata* share and estimated distribution from the Net Settlement Funds, Class Counsel will file a motion with the Court to approve the final plan of distribution and will provide the Court a report on (i) the status of the claims process, (ii) the proposed distribution amounts for individual Class Members (the "Schedule of Distribution"), and (iii) any outstanding disputes on which the Court's guidance is sought.

5. Payment to the Claimants

After entry of the Court's order approving a Schedule of Distribution (whether as presented or as modified by the Court), the Escrow Agent for the Settlement Funds will release the Net Settlement Funds to Garden City Group, which will deposit them into a single Distribution Account. Garden City Group will then issue a check payable to each claimant in an amount corresponding to its *pro rata* share of the funds, as approved by the Court, and will use reasonable efforts to locate any claimants whose checks are returned as undeliverable.

All settlement checks issued by Garden City Group will bear an expiration date. Garden City Group will use reasonable efforts to encourage claimants to cash checks before they expire and may reissue checks to claimants whose checks have expired. Garden City Group will void expired checks that are not cleared within a commercially reasonable period of time (generally

¹ For Class Members who opted out of one or more, but not all, of the Settlements, their *pro rata* share will be adjusted downward by the percentage share of the Settlement Funds contributed by Defendants from whose Settlements the Class Member opted out, and the amount by which such Class Members' distribution amount is reduced will be reallocated across the rest of the Class.

90 or 120 days). The monies represented by voided checks that are not reissued shall revert to the Distribution Account, at which time Class Counsel will provide a status report to the Court on the status of the distribution, the amount of any unclaimed funds, and a recommendation on what to do with such funds.

6. Payment of Garden City Group's Invoices

Garden City Group will submit monthly invoices to Class Counsel detailing the work performed and the expenses incurred in the prior month in the course of administering the Settlements. Class Counsel will review such invoices, seek clarification or modification as needed, and submit invoices for reasonable and necessary fees and expenses to the Escrow Agents with a written request that the invoices be paid from the appropriate Escrow Account(s). Class Counsel will update the Court on these expenses in the aforementioned status report, and Class Counsel will submit any additional status reports that the Court may request.

APPENDIX A

To Class Counsel's Proposed Plan Of
Allocation And Distribution For The *Steel*
Antitrust Settlement Funds Recovered from
Defendants ArcelorMittal, U.S. Steel, Gerdau,
Commercial Metals, and AK Steel:

Proposed Proof of Claim Form

Steel Antitrust Litigation c/o
GCG
P.O. Box 9349
Dublin, OH 43017-4249

For Official Use Only

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IMPORTANT COURT-ORDERED DOCUMENT

<<BARCODE>>

Claimant ID #(<Claimant_ID>) - (<Sequence>)
(<Name_1>)
(<Address_1>)
(<City>), (<State>) (<Zip5>) (<Zip4>)

IN RE: STEEL ANTITRUST LITIGATION

United States District Court for the Northern District of Illinois
Civil No. 08-cv-5214

**PROOF OF CLAIM FORM — ARCELORMITTAL, U.S. STEEL, GERDAU,
COMMERCIAL METALS, AK STEEL SETTLEMENTS**

Important Notice: If you are a Settlement Class Member, you can submit a claim without collecting any documentation from your files.

To receive your share of the Settlement funds, you must send a completed, signed, and certified proof of claim to the Claims Administrator, postmarked on or before -----, -----, to the following address:

Steel Antitrust Litigation
c/o GCG
P.O. Box 9349
Dublin, OH 43017-4249

You are only entitled to a distribution if you are a member of the Settlement Class. You are a member of the Settlement Class if you purchased Steel Products (as defined below) directly from a defendant (defined below) at any time from April 1, 2005 through December 31, 2007 in the United States. Excluded from the Class are any defendants, their employees, and their respective parents, subsidiaries and affiliates; all who timely elected to exclude themselves from the Class; and all governmental entities.

"Steel Products" are defined as products derived from raw carbon steel and sold directly by any of the Defendants or their subsidiaries or controlled affiliates in the United States, including all carbon steel slabs, plates, sheet and coil products, galvanized and other coated sheet products; billets, blooms, rebar, merchant bar, beams and other structural shapes; and all other steel products derived from raw carbon steel and sold by Defendants except as specifically excluded below.

"Steel Products" specifically **exclude** the following product categories: stainless steel; grain-oriented electrical steel; tin mill products; clad plate (i.e., nickel, stainless or copper clad plate); steel pipe and other tubular products; "special bar quality" products; wire rod and other wire products; grinding balls; fabricated rebar products; fabricated steel joist, decking, fence posts and other fabricated building products; welded steel blanks; and steel products purchased under toll processing agreements.

The term "**Purchased**" includes all transactions for which pricing was negotiated during the period April 1, 2005 through December 31, 2007 **and** delivery was received during that period. Qualifying purchases also include Steel Product transactions for which a sales contract was negotiated before April 1, 2005 but (i) delivery was received between April 1, 2005-December 31, 2007 **and** (ii) the actual transaction price under the contract was adjusted (or indexed) based on market pricing that prevailed during the period April 1, 2005-December 31, 2007.

"Defendants" are: ArcelorMittal S.A. and ArcelorMittal USA LLC (collectively "ArcelorMittal"), United States Steel Corporation ("U.S. Steel"), Nucor Corporation ("Nucor"), AK Steel Holding Corporation ("AK Steel"), Gerdau Ameristeel Corporation ("Gerdau"), Steel Dynamics, Inc. ("Steel Dynamics"), Commercial Metals Company ("CMC"), and SSAB Swedish Steel Corporation ("SSAB").

If you are *not* a Class Member, *e.g.*, because you did not purchase Steel Products directly from a Defendant during the period April 1, 2005-December 31, 2007, or because you previously excluded yourself from the Settlement Class, you are not entitled to a distribution and should *not* submit this Proof of Claim form.

This Proof of Claim, even if prepared by a third party, must be completed, signed and certified by the Class Member. The Claims Administrator is authorized to request from persons or entities submitting proofs of claim any documentation necessary to verify information appearing in the Proof of Claim and to prevent claim duplication. Failure to provide requested information may constitute grounds for rejection of the Proof of Claim.

PART 1: CLAIMANT IDENTIFICATION

(Please type or neatly print all information – use blue or black ink)

Class Member Name and Address:

**[PRE-PRINTED CLAIMANT NAME]
ADDRESS
CITY, STATE ZIP**

If necessary, use the following box to correct your name and address information:

| |
|--|
| |
| |
| |
| |

Federal Employer Tax ID Number (FEIN)

| |
|--|
| |
|--|

Person to contact if there are questions regarding this claim:

| |
|--|
| |
|--|

Daytime phone number:

| |
|--|
| |
|--|

Email address:

| |
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Any other names by which you have been known, including FEIN, during the period April 1, 2005-December 31, 2007:

| |
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| |

PART 2: CLAIMANTS' PURCHASE DATA

As described in the Plan of Allocation, which is available at the Steel Settlement website, www.steelantitrustsettlement.com, each Class Member's claim is based on the amounts each Class Member paid for purchases of qualifying Steel Products during the period April 1, 2005-December 31, 2007. The Net Settlement Funds will be distributed to Class Members on a *pro rata* basis, with Class Members' purchases of Steel Products from all of the Defendants serving as the basis for the calculation.

To submit a claim based on Defendants' purchase data, which is summarized in the table below, all you have to do is complete Part 4 below, and return the claim form. In other words, if you accept the purchase figures in the box immediately below, there is no need to complete Part 3 of this claim form and no need to search your own records or produce any backup to receive your share of the Settlement Funds.

| Defendant-Supplier | Direct Purchase Amount |
|--------------------|------------------------|
| ArcelorMittal | |
| U.S. Steel | |
| Nucor | |
| AK Steel | |
| Gerdau | |
| Steel Dynamics | |
| CMC | |
| SSAB | |
| Total | |

The totals above were obtained directly from the Defendants' sales records and summarize your total payments for Steel Products during the period April 1, 2005-December 31, 2007. If you accept this estimate, you can simply skip Part 3 below and proceed to Part 4, and your share of the Steel Settlement Fund will be calculated based on this amount.

Please Note: If you appeared in Defendants' records under other names or at different locations, you and related entities and locations may receive multiple but non-duplicative Proof of Claim forms, each with a unique Claimant ID Number (located in the address block on the first page).

PART 3: CLAIMANTS' CORRECTED PURCHASE DATA

(To be completed **ONLY** if you disagree with, and do not wish to accept, the totals presented in Part 2)

If you disagree with the pre-printed information contained in Part 2, please enter the corrected purchase totals in the table below and attach documentation in support of the revised total. **You MUST attach documentation in support of any corrected amounts.**

| Defendant-Supplier | Direct Purchase Amount |
|---------------------------|-------------------------------|
| ArcelorMittal | |
| U.S. Steel | |
| Nucor | |
| AK Steel | |
| Gerdau | |
| Steel Dynamics | |
| CMC | |
| SSAB | |
| Total | |

To support any corrected purchase amounts, you **must** provide proof to support the corrected amount and identify the Defendant-supplier, product names and types, dates of purchase, and net purchase amounts (in U.S. dollars). Electronic transaction summaries or similar records are preferred. Only purchases made directly from one of the Defendants qualify. Purchases through an intermediary such as a service center, wholesaler or distributor **do not qualify**.

If you received and are correcting multiple Proof of Claim forms, please provide supporting documentation for all of them.

PART 4: SUBMISSION TO JURISDICTION OF THE COURT AND VERIFICATION

By signing below, you are submitting to the jurisdiction of the United States District Court for the Northern District of Illinois with respect to the claim you are making as a Class Member.

By signing below, you are verifying that you are the proper recipient of the funds sought and that you have not assigned or transferred (or purported to assign or transfer) any of the claims in this matter. You are further verifying that the information provided in this Proof of Claim is accurate and complete.

Name and Capacity/Title:

Signature:

Date:

The completed Proof of Claim and the information it contains will be treated as confidential and will be used solely for purposes of administering the settlement.